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|  | **PENNSYLVANIA****PUBLIC UTILITY COMMISSION****Harrisburg, PA 17105-3265** |  |

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|  | Public Meeting held January 18, 2018  |
| Commissioners Present: |  |

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| Gladys M. Brown, Chairman |  |
| Andrew G. Place, Vice ChairmanNorman J. Kennard |  |
| David W. Sweet, concurring in result only |  |
| John F. Coleman, Jr. |  |
| Petition of NRG Energy, Inc. for Implementation of Electric Generation Supplier Consolidated Billing | P-2016-2579249 |

**OPINION AND ORDER**

**BY THE COMMISSION:**

Before the Public Utility Commission (Commission) for consideration is the Petition of NRG Energy, Inc. (NRG) for Implementation of Electric Generation Supplier Consolidated Billing. Through its Petition, NRG requests that the Commission permit electric generation suppliers (EGSs) to implement supplier consolidated billing (SCB), a method of billing customers for electric service which has previously been considered by the Commission but never implemented. NRG believes that the time is right to implement SCB and that implementation is a necessary step to further promote competition in Pennsylvania’s retail electric market.

 Two billing methods are currently available to retail electric customers in the Commonwealth: (1) dual billing and (2) utility consolidated billing (UCB). Under dual billing, a customer receives two separate bills for electric services—one from the electric distribution company (EDC) for its distribution charges and another from the EGS for its generation and transmission charges. Under UCB, a customer receives one consolidated bill from the EDC, which covers the EDC’s distribution charges *and* the EGS’s generation charges. According to NRG, most residential electric customers in Pennsylvania are billed under UCB.[[1]](#footnote-1)

 NRG, through its Petition, proposes to add a third billing option, SCB. Under SCB, customers would receive one consolidated bill; however, that bill would come from the customers’ EGS rather than their EDC. Under SCB, the EGS would bill customers for both the EDC’s distribution charges as well as the EGS’s generation and transmission charges, and customers would no longer receive a bill from their EDC.

A SCB bill could also include charges for any additional value-added services (VAS), such as home security, HVAC maintenance, or surge protection, purchased by the customer. Charges for VAS provided by an EGS cannot presently be included on a UCB bill when an EGS is utilizing the EDC’s purchase of receivables (POR) program. NRG asserts that EGSs do not offer VAS now because they cannot bill for them on a UCB bill. Because SCB would allow EGSs to bill for these additional services on the customer’s normal monthly electric bill, NRG believes that its implementation would encourage more EGSs to enter the market in Pennsylvania and offer a wide array of VAS from which customers could choose.

According to NRG, the ultimate goal of electric industry restructuring was to foster competition in Pennsylvania’s retail electric market for the benefit of consumers. NRG asserts that implementing SCB would entice more EGSs to operate in the Commonwealth, thereby increasing competition in the market. NRG contends that consumers would benefit first by the lower prices resulting from increased competition and second by having a multitude of choices for their EGSs, each offering a number of additional services that could be bundled with their generation service.

The NRG petition represents a definitive proposal for the implementation of SCB. As such, the Commission must review the legal and policy implications of NRG’s proposal and decide whether or not to implement SCB. Numerous parties filed Answers in support and in opposition to the NRG Petition. Other parties recommended the Commission remand the NRG Petition to the Office of Administrative Law Judge for evidentiary hearings.

**BACKGROUND**

 In 1996, the Pennsylvania General Assembly passed the Electricity Generation Customer Choice and Competition Act (Competition Act), 66 Pa. C.S. §§ 2801 – 2815. The Competition Act restructured the electric industry in Pennsylvania and allowed customers—residential, commercial, and industrial—to choose their electric generation supplier (EGS). The goal of the Competition Act is to lower electricity prices for customers by introducing competition into the retail electric market. The General Assembly declared its policies in passing the Competition Act to be, among other things, (1) fostering competition in the retail electric market for generation and supply to benefit consumers in the form of lower prices while at the same time ensuring the safety and reliability of electric distribution service and (2) continuing to extend protections to assist low-income customers to afford electric service. *See* 66 Pa. C.S. § 2802.

 Section 2802 of the Competition Act demonstrates the General Assembly’s intent to end regulation of electric generation. 66 Pa. C.S. § 2802(14). At the same time, the General Assembly made clear its intent that the transmission and distribution service provided by EDCs “continue to be regulated as a natural monopoly subject to the jurisdiction and active supervision of the Commission.” 66 Pa. C.S. § 2802(16).

 Since electric restructuring occurred, the Commission has remained committed to the successful development of the competitive retail electric market in Pennsylvania and has recognized the need to balance regulatory requirements aimed at consumer protection against policies designed to facilitate entry and participation in the market by EGSs. As part of this ongoing commitment, in 2011 the Commission launched an investigation into Pennsylvania’s retail electricity market to assess the status of the market and to determine whether any changes could be made to improve competition in the market. *See Investigation of Pennsylvania’s Retail Electricity Market*, Docket No. I-2011-2237952.

 During the early stages of the investigation, the Commission determined that changes were required “to bring about the robust competitive market envisioned by the General Assembly when it passed” the Competition Act. The Commission noted that many price offers made by EGSs were only slightly below the EDC’s price to compare (PTC) and that few innovative products had been offered by EGSs, so there was little incentive for residential and small commercial customers to shop for electricity. Other factors identified by the Commission, including the inability of EGSs to issue consolidated bills to customers, served to limit the relationship between EGSs and their customers. The Commission felt that the tenuous relationship between EGSs and their customers led to confusion and discouraged EGSs from investing more resources in Pennsylvania, which clearly did not serve the Commonwealth’s interest in fostering a robust competitive electric market.[[2]](#footnote-2)

 On February 15, 2013, the Commission entered its *Investigation of Pennsylvania’s Retail Electric Market: End State of Default Service* Final Order (*End State Final Order*) recommending fundamental changes to the default service product so that it would more closely resemble current market conditions, rather than historical market conditions. The Commission’s goal was to create a structure where the current market drives prices charged by EGSs, leading to greater certainty and a more level playing field with EDCs, thereby encouraging EGSs to expand their investment in Pennsylvania and increasing competition in the market.[[3]](#footnote-3)

 As part of the investigation that led to the *End State Final Order*, the Commission examined a number of changes proposed to enhance competition in Pennsylvania’s retail electric market. One such proposal was the implementation of SCB.

 The Commission noted that SCB was a billing option established by some of the EDCs’ restructuring settlements in the 1990s, but was not utilized at that time. In 2010, PPL Electric Utilities (PPL) worked with an individual EGS to design a manually processed SCB platform. Presently, the Competitive Billing Specifications Rider section of PPL’s Supplier Coordination Tariff includes language referring to SCB.[[4]](#footnote-4)

In April 2010, the Electronic Data Exchange Working Group (EDEWG) created a subgroup to study the technical and legal questions associated with implementation of SCB. The SCB working group reported in August 2010 that a consensus was reached on some issues, but many other issues remained unresolved. The EDEWG subgroup recommended that those unresolved issues be referred to the Commission’s Office of Competitive Market Oversight (OCMO) and the Committee Handling Activities for Retail Growth in Electricity (CHARGE) for further review.[[5]](#footnote-5)

 Given the complexity of and controversy over those outstanding issues, OCMO, after consulting with the Commission, decided that SCB could not be properly addressed through an informal working group. As such, the Commission decided to address SCB as part of its 2011 investigation into Pennsylvania’s retail electric market. The Commission did not believe that any of the outstanding issues presented an insurmountable obstacle to making SCB available as a billing *option*—to join, not replace, dual billing and UCB—and ordered OCMO to provide a recommendation regarding how to proceed with making SCB available as a billing option.[[6]](#footnote-6)

 After reviewing comments from interested stakeholders, the Commission concluded that it was not prepared to implement SCB. The Commission determined that SCB could at some point (1) play a role as a billing option in the competitive retail electric market; (2) help EGSs establish a brand identity with their customers; and (3) help facilitate the offering of innovative products and services. However, the extensive work and expense necessary to implement SCB could not be justified given the multitude of other, more critical, changes—such as accelerated switching and changes to the default service product—being ordered as part of the investigation.[[7]](#footnote-7)

 The Commission was also concerned that too few EGSs would opt to use SCB to justify the extensive work and expense required to implement it, especially considering the availability of POR programs. Under POR programs, which are tied to UCB, the EDCs purchase an EGS’s receivables directly—the generation and transmission charges EGSs are owed by their customers—and then are responsible for collecting *all* electric service charges from customers. An EGS would have to forgo those programs to offer SCB and assume the burdens of billing, collecting on those bills, and any associated bad debts currently undertaken by EDCs. The Commission also noted that EGSs already have the option of dual billing, which allows EGSs to issue a separate bill to their customers if they do not find UCB conducive to their business model.[[8]](#footnote-8)

 Based on its review, the Commission rescinded its prior order that OCMO submit recommendations as to how to proceed with SCB. Instead, the Commission directed OCMO to explore a simpler, more cost-effective solution: to submit recommendations to make the UCB bills issued by EDCs more EGS-oriented by featuring the EGS’s charges and information more prominently on the customer’s bill. Ultimately, the Commission expected that the new UCB would look more like a joint EDC-EGS bill. Creating this “supplier-friendly” utility consolidated bill would be a less expensive and less time-consuming method to facilitate an EGS’s relationship with its customers compared to implementation of SCB and would not raise the consumer protection concerns that would come from EGS billing under SCB.[[9]](#footnote-9)

 The Commission ended by noting that it was not dismissing SCB outright, that it believed SCB could play a role in the competitive energy market, and that it would reconsider SCB at some point in the future. However, the Commission determined that there were more pressing priorities to address before SCB. When and how the Commission would proceed with SCB in the future would depend, in part, on the results of the implementation of the more supplier-oriented utility consolidated bill (joint bill).[[10]](#footnote-10)

 During 2013, OCMO studied ways to make UCB bills more supplier-oriented, soliciting comments and suggestions from interested parties and later holding a stakeholder conference call to further discuss some of those recommendations. After receiving OCMO’s recommendations, the Commission issued a Tentative Order on February 6, 2014, seeking comments on the recommendations.[[11]](#footnote-11)

 On May 23, 2014, after receiving and reviewing those comments, the Commission entered a Final Order adopting some of the changes proposed by OCMO. The changes adopted—inclusion of the EGS logo on the bill near its charges, expansion of space on the bills for EGS messaging from two lines to four, and the inclusion of a Shopping Information Box to conspicuously summarize the information a customer would need to provide when switching suppliers—were to be implemented by EDCs by June 1, 2015.[[12]](#footnote-12)

 Among the proposals for the new supplier-oriented utility consolidated bills expressly rejected by the Commission were (1) the inclusion of additional lines for EGSs to include charges for VAS, such as rebates, discounts, and energy efficiency products and (2) the inclusion of bill inserts by the EGSs, such as a letter, notice, or other marketing material. The inclusion of additional lines for EGS VAS was not accepted because the Commission had not been provided enough information at that point, while the recommendation for inclusion of bill inserts was declined with the intention that the increase in EGS messaging space would make a bill insert unnecessary by providing a stronger relationship between the EGS and customer.[[13]](#footnote-13)

 The NRG Petition seeks to move the discussion of SCB from the general concepts discussed in prior orders to a specific program and implementation mechanism.

**SUMMARY OF PETITION**

**A. Background**

 On December 8, 2016, NRG filed its Petition requesting that the Commission issue an Order implementing SCB as a billing option available to customers of EGSs by the second quarter of 2018. According to NRG, allowing EGSs to issue consolidated bills through SCB would enable them to offer customers VAS, while, at the same time, maintaining for customers the convenience of receiving a single electric bill. NRG asserts that implementation of SCB would ultimately move Pennsylvania toward a fully functioning, robust competitive retail electric market as envisioned by the General Assembly when it authorized the restructuring of the electric industry in 1996.[[14]](#footnote-14)

 Through its Petition, NRG alleges (1) that SCB is legally permissible under the Public Utility Code; (2) that it will benefit consumers by allowing them to purchase innovative products and services from EGSs and realize the full benefits of advanced metering infrastructure; (3) that it will boost competition in the electric generation market by providing an incentive for EGSs to invest in Pennsylvania; and (4) that the Commission approves of SCB and has long intended that it be part of a robust competitive retail electric market in the Commonwealth. NRG argues that the “joint bill” has not had the desired effect of strengthening the relationship between the EGS and its customers or stimulating competition because, given the modest changes made, the joint bill still appears to be an EDC bill. As such, according to NRG, the time is now right to implement SCB.[[15]](#footnote-15)

 NRG notes that during the RMI, the Commission spoke approvingly of SCB as a tool that could be used to strengthen the relationship between EGSs and their customers, which in turn could lead to enhanced competition in the retail electric market. Although NRG acknowledges that the Commission ultimately chose not to implement SCB as part of the RMI, NRG believes it was the Commission’s intention to revisit the issue at some point in the future.[[16]](#footnote-16)

 NRG asserts that SCB was permitted as part of several EDCs’ restructuring settlements in the late-1990s, in which the EDCs agreed to implement competitive billing options; however, NRG acknowledges that SCB was not implemented following the approval of those settlements.[[17]](#footnote-17)

 According to NRG, once rate caps began expiring in 2009, EGSs expressed a renewed interest in SCB, resulting in an evaluation of electronic data interchange (EDI) protocols by EDEWG. During that evaluation, EDEWG sought guidance from the Commission to resolve several outstanding policy questions, which ultimately were never answered. NRG states the Commission’s preference in 2011 was for an interested party to file a petition to further SCB. NRG files this Petition to request Commission approval of SCB as billing option in Pennsylvania’s retail electric market.[[18]](#footnote-18)

 NRG contends that despite the changes implemented pursuant to the Commission’s RMI, competition in Pennsylvania’s retail electric market remains stagnant. SCB, according to NRG, is a workable plan to improve the competitive market. NRG proposed a timeline for implementation of SCB beginning with publication of its Petition in the *Pennsylvania Bulletin* on December 24, 2016 and ending with implementation in the second quarter of 2018.[[19]](#footnote-19)

 NRG further contends that evidentiary hearings before the Commission’s Office of Administrative Law Judge (OALJ) are unnecessary because no material issues of fact are presented by its Petition. NRG proposes that any disputes regarding its factual assertions be addressed through written comments and replies. NRG asserts that the questions the Commission must answer to proceed with SCB implementation are legal and policy in nature, the types of questions the Commission regularly address through the written comment and reply process. NRG goes on to assert that any parties who request hearings on the Petition are doing so simply to delay the implementation of SCB.[[20]](#footnote-20)

**B. Supplier Consolidated Billing (SCB)**

 NRG proposes that the Commission adopt a comprehensive plan ensuring uniformity in the operation of SCB and that consumer protection regulations are followed by all participants, with implementation by the second quarter of 2018.[[21]](#footnote-21) An EGS choosing to offer SCB would bill and collect from the customer for both its generation and transmission charges, as well as the EDC’s distribution charges, and it would be required to purchase the full value of the EDC’s receivables within a Commission-approved timeframe. In other words, the EGS would keep none of the EDC’s receivables as an administrative or billing fee. The EGS would then be responsible for collecting the money from the customer, assuming the risk of bad debts the EDC alone currently bears under UCB. NRG believes that the entities in competition with each other—the EGSs—should bear that risk, not the regulated utility providing a tariffed service.[[22]](#footnote-22)

 NRG claims that it would comply with all consumer protection standards, including billing practices for residential service set forth in Chapter 56 of the Commission’s regulations. *See* 52 Pa. Code, Chapter 56. Under NRG’s proposal, the EDC would remain responsible for physically terminating service to delinquent customers, consistent with Commission regulations. The EGS would instruct the EDC to terminate service when termination is permitted. If the EDC did not terminate service to a customer on a timely basis, NRG proposes that the EGS not pay the EDC its “delivery charges” for subsequent service provided to that customer.[[23]](#footnote-23)

 NRG believes that EGSs utilizing SCB should be permitted to initiate the termination of a non-paying customer’s service under 66 Pa. C.S. Chapter 14 as an EDC can under UCB. NRG argues that the purpose of Chapter 14 is to prevent customers who can pay their electric bills from avoiding payment. To implement SCB, EGSs need the ability to order a termination of service or they will not be able to manage their bad debts and will not have a meaningful way to collect unpaid amounts from delinquent customers.[[24]](#footnote-24)

 To guarantee consumer protections, NRG proposes that EGSs offering SCB meet more stringent financial security requirements and demonstrate technical expertise in billing and related functions to maintain their licenses. Those standards could include: (1) posting minimum financial security; (2) a requirement that the EGS has operated a minimum number of years in Pennsylvania and/or other competitive electricity markets; (3) a requirement that the EGS has not defaulted on a power supply contract for a minimum number of years; (4) a requirement that the EGS maintain a local office in Pennsylvania; (5) a requirement that the EGS have experience serving a minimum number of residential customers; and (6) a requirement that the EGS have experience with billing, collections, and handling customer service calls.[[25]](#footnote-25)

 Regarding service quality, NRG proposes that EGSs providing SCB meet the applicable customer billing and complaint standards in Chapter 56 of the Commission’s regulations. *See* 52 Pa. Code §§ 56.151-56.156; 52 Pa. Code § 111.13. NRG expects that EDCs will provide the EGSs with the information necessary to respond to any customer inquiries and complaints.[[26]](#footnote-26)

 NRG believes that EGSs offering SCB should be allowed to request deposits from customers in accordance with Commission regulations. *See* 52 Pa. Code §§ 56.31-56.58. NRG also believes that EGSs should be allowed to display EDC charges on the SCB bill as a single, combined price. EGSs should also have the option to absorb any increase in distribution rates rather than pass them on to customers. In addition, NRG believes that EDC-administered programs that require UCB for EGS participation, such as standard offer programs, should be revised to allow EGS participation under either UCB or SCB.[[27]](#footnote-27)

 To ensure that customers on a payment plan cannot use their ability to switch EGSs to avoid paying all of their charges, NRG proposes a “block mechanism” to protect EGSs offering SCB. That mechanism would prevent these customers from switching to another EGS or back to the EDC until their past due bills have been paid in full.[[28]](#footnote-28)

 Finally, in its Petition, NRG proposes that EDCs continue to administer low-income assistance programs. The EDCs would be responsible for calculating each low-income customer’s charge and providing that information to the EGS for inclusion on the customer’s bill.[[29]](#footnote-29)

**C. Purported Legal Authority For SCB**

 NRG believes that SCB is unquestionably legal because (1) Section 501 of the Public Utility Code, 66 Pa. C.S. § 501, authorizes the Commission to execute all provisions of the Code by its regulations and orders; (2) the Commission can permit an EGS to serve in the default service provider (DSP) role per 66 Pa. C.S. § 2802(16); and (3) the Commission can require further unbundling of services per 66 Pa. C.S. § 2804(3).[[30]](#footnote-30)

 NRG points to prior Commission actions to support its belief that the Commission also holds the opinion that SCB is legally permissible. First, NRG notes that in the RMI *End State Orders*, the Commission clearly expressed its opinion that SCB was legally permissible and could play an important role in Pennsylvania’s competitive retail electric market. Although the Commission opted not to pursue SCB at the time because of other more pressing concerns, NRG notes that the Commission intended to reconsider SCB in the future. Second, SCB was established as a billing option in the restructuring settlements of several EDCs. Those settlements, NRG notes, were approved by the Commission in 1998. At that time the Commission held that EGSs that provide billing services are subject to the billing regulations in Chapter 56. Lastly, in the late-1990s and early-2000s, the Commission approved work performed by EDEWG to implement SCB. Based on those facts, according to NRG, it is clear that SCB is legal and that the Commission agrees.[[31]](#footnote-31)

**D. SCB Benefits For Customers**

 NRG claims that implementation of SCB would benefit customers in two main ways: it would allow EGSs to offer innovative products and services to their customers, which in turn would encourage more EGSs to enter Pennsylvania’s retail electric market, thereby enhancing competition.[[32]](#footnote-32)

 NRG claims that billing and payment services are just as important as price to customers. SCB, because it allows EGSs to directly bill their customers and collect from them, will allow EGSs to forge stronger relationships with their customers and establish themselves as capable, reliable businesses. Without that relationship, NRG claims, price is the most important factor to customers. With that relationship, the other products and services an EGS can offer its customers could become an equally important factor, which would encourage more customers to shop for electricity. According to NRG, existing policies in Pennsylvania’s retail electric market—including the inability of EGSs to offer SCB—have ensured that customers remain focused on price.[[33]](#footnote-33)

 NRG claims that if SCB were implemented, new products it could offer—in conjunction with the deployment of smart meters—would allow customers to enroll in demand reduction and energy efficiency programs and become smarter energy consumers. Those products include (1) prepaid electric plans, which would allow customers to decide how much they want to spend on electricity each month with the EGSs notifying them when their balances are running low and (2) flat bill plans that would allow customers to have complete control of their electric bills. According to NRG, EGSs cannot offer these products now because they cannot bill for them. SCB would change that.[[34]](#footnote-34)

 NRG also claims that offering SCB would allow EGSs to communicate more often and more directly with their customers via customer service calls and bill messaging. The EGSs would be able to provide information to consumers that they are not currently getting, including information on product offerings. That contact would allow EGSs to differentiate their product offerings from competitors’ offerings, which will benefit consumers by providing them more information on which they can make electric shopping decisions.[[35]](#footnote-35)

**E. Barriers Posed By UCB**

 According to NRG, the existing UCB model limits the ability of EGSs to offer innovative products and services to customers, and the joint bill initiative has not alleviated that problem. First, UCB does not allow an EGS to place charges other than its generation charges on the bill if the EGS utilizes POR. Second, UCB limits how the generation charges are displayed on the bill, which restricts the EGS in terms of the pricing plans it can offer. Also, the EDCs billing systems are designed specifically for tariffed utility services. In NRG’s opinion, the EDCs cannot afford to continually update their billing systems to accommodate the numerous billing needs of the multiple EGSs operating in Pennsylvania.[[36]](#footnote-36)

Lastly, NRG claims that the new joint bills have not had a positive impact because the addition of two more messaging lines for EGSs on the joint UCB bills has not been enough to strengthen the relationship between EGSs and their customers. Other issues with the joint bills have limited their effectiveness at improving conditions for EGSs, including that they are not required to include an EGS logo in color; that there is no EGS information on the bill’s envelope; that there is no EGS information included in the email notices sent to customers who do not receive paper bills; and that the EGS messaging on the bills cannot be customized for an individual customer. NRG believes that the joint bill still appears to be an EDC bill with the EGS information relegated to a few lines. As such, according to NRG, the goal of fostering competition by strengthening the relationship between EGSs and their customers has not been met.[[37]](#footnote-37)

**F. Background Work Already Completed**

 NRG anticipates, given the importance of SCB to the continued development of a competitive retail electric market in Pennsylvania and “the lack of any legitimate downsides to its implementation,” that any opposition to its Petition “will focus on the complexities and potential costs associated with implementing SCB.”[[38]](#footnote-38)

 To counter those arguments, NRG notes that EDEWG has already done extensive work to implement SCB, including the development of EDI transactions. EDEWG also developed a set of policy questions the Commission would need to answer before further work could be done to develop transactions. NRG requests that the Commission answer those questions. Also, NRG states that EDI protocols for SCB have been developed in Texas and would provide a roadmap for SCB implementation in Pennsylvania. If there are any incremental costs of SCB implementation, NRG asserts that “the Commission can direct the EDCs to address this issue in compliance filings similar to the manner in which other costs for system changes have been handled.”[[39]](#footnote-39)

 NRG asserts that the work remaining to be done to implement SCB is minor compared to the work that has already been done “to permit retail customers to receive their electric generation services from EGSs.” As such, the only thing needed is the commitment to take the necessary steps to create the robust competitive retail electric market envisioned by the General Assembly when it authorized electric restructuring.[[40]](#footnote-40)

**G. Proposed Commission Actions**

 Finally, NRG proposed a number of actions the Commission would need to take in order to implement its proposal for SCB in Pennsylvania and supplied a proposed timeline for the Commission to follow.[[41]](#footnote-41)

**BURDEN OF PROOF AND LEGAL STANDARD FOR DECLARATORY ORDERS**

As the proponent of the Order, NRG has the burden of the proof. 66 Pa. C.S. § 332. NRG filed its Petition, requesting that the Commission issue a Declaratory Order implementing SCB as a billing option available to customers of EGSs, pursuant to 52 Pa. Code § 5.41 (re:  Petitions generally). NRG Petition at 1. Section 5.41 requires that petitions for relief must be in writing, state clearly and concisely the interest of the petitioner in the subject matter, the facts and law relied on, and the relief sought. 52 Pa. Code § 5.41(a). Petitions for the issuance of a declaratory order to terminate a controversy or remove uncertainty must: (1) state clearly and concisely the controversy or uncertainty; (2) cite the statutory provision or other authority involved; (3) include a complete statement of the facts and grounds prompting the petition; and (4) include a full disclosure of the interest of the petitioner. 52 Pa. Code § 5.42(a).

**PROCEDURAL HISTORY**

 NRG filed its Petition for implementation of SCB on December 8, 2016. Seventeen parties filed Comments by the January 23, 2017 deadline. Comments advocating for Commission approval of NRG’s Petition were received from Direct Energy Services, LLC, Direct Energy Business Marketing, LLC, and Direct Energy Business, LLC (collectively, Direct Energy); the Retail Energy Supply Association (RESA), a trade association of energy supply companies; and WGL Energy Services, Inc. (WGL Energy).

 Duquesne Light Company (Duquesne); the Energy Association of Pennsylvania (EAP), a trade organization representing regulated electric and natural gas distribution companies operating in the Commonwealth; Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power Company (collectively, FirstEnergy); the Met-Ed Industrial Users Group, Penelec Industrial Customer Alliance; Philadelphia Area Industrial Energy Users Group, PP&L Industrial Customer Alliance, and West Penn Power Industrial Intervenors (collectively, the Industrial Customer Alliances); Office of Consumer Advocate (OCA); and UGI Utilities, Inc. – Electric Division (UGI) submitted Answers and/or Comments arguing that the Commission should deny NRG’s Petition.

 The Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE PA); PECO Energy Company (PECO); PPL Electric Utilities Corporation (PPL); and the Tenant Union Representative Network and Action Alliance of Senior Citizens of Greater Philadelphia (TURN) agree that the Commission should deny NRG’s Petition; however, they argue that, in the alternative, the Commission should remand the matter to OALJ for evidentiary hearings.

 Citizens Electric Company and Wellsboro Electric Company (Citizens & Wellsboro) contend that the Commission should reject NRG’s Petition, but that if it is approved, the Commission should grant an exception for smaller EDCs.

 The Office of Small Business Advocate (OSBA) and the Pennsylvania AFL-CIO Utility Caucus (PA AFL-CIO) advise the Commission to remand the matter for evidentiary hearings before the OALJ.

 Finally, Calpine Energy Solutions, LLC (Calpine), an EGS operating in Pennsylvania and providing billing services under the dual billing model requests that the Commission consider its comments before reaching a decision on NRG’s Petition. Calpine supports the concept of SCB in general and certain portions of NRG’s Petition; however, it cautions that implementation must be done with extreme care to avoid disparate treatment between EGSs that offer SCB and those that do not.[[42]](#footnote-42)

 Eleven parties, including NRG, filed Reply Comments by the February 22, 2017 deadline: the American Coalition of Competitive Energy Suppliers (ACCES), a group of competitive electric and natural gas suppliers; CAUSE PA; Duquesne; FirstEnergy; OCA; PECO; PPL; RESA; TURN; and WGL Energy.

 As noted above, a number of commenters contend that this matter should be referred to the OALJ for evidentiary hearings—either as an initial step or in the event that the Commission does not dismiss NRG’s Petition outright. NRG claims that (1) evidentiary hearings are unnecessary because its Petition presents no *material* factual issues that could be disputed; (2) any dispute regarding lesser facts can be adequately resolved through comments and a stakeholder process; and (3) the only significant outstanding issues involve law, policy, and the Commission’s discretion.[[43]](#footnote-43) Commenters including CAUSE PA, OSBA, the PA AFL-CIO, PECO, PPL and TURN believe that there are issues of material fact that warrant evidentiary hearings—for example, whether SCB is permissible under the Public Utility Code and the corresponding Commission regulations; the state of competition in the Commonwealth’s retail electric market; the need for SCB; the number of EGSs that would offer SCB; the impact SCB would have on consumer protections and programs for low-income customers; and an assessment of the costs of implementation.[[44]](#footnote-44)

 Here, because we are denying NRG’s Petition for potential legal and policy reasons, evidentiary hearings are not required. Due process requires evidentiary hearings only when there are disputed questions of fact to address; not when there are only questions of law, policy, or discretion at issue. *Painter v. Pa. Public Utility Commission*, 116 A.3d 749, 755 (Pa. Cmwlth. 2015). Although there are clearly factual disputes among NRG and a number of commenters, the Commission’s denial of NRG’s Petition is based on legal and policy concerns that fail to be remedied within NRG’s instant Petition. The facts in dispute are not material to the Commission’s decision in this matter.

**DISCUSSION**

 Upon careful review and consideration of the NRG petition and associated comments, the Commission will deny NRG’s Petition for implementation of SCB as an additional billing mechanism for the retail energy market in Pennsylvania because it lacks sufficient detail to substantiate a definitive determination on both the policy prudence and legality of a variety of issues. In the Commission’s judgment, NRG’s proposal is not fully developed, leaves many critical issues unaddressed, and could be harmful to Pennsylvania’s electric consumers and retail electric market in general. As such, NRG has not met its burden of proving that its proposal is in the public interest, or that it complies with the Public Utility Code and Commission regulations promulgated thereunder.

 Our concerns weighing against NRG’s proposals include transferring the power to order termination of a customer’s electric service to EGS firms; the block mechanism enabling EGSs to prevent supplier switching by customers on a payment plan; the ability of EGSs to properly account for VAS charges; the handling of customers receiving subsidies from low-income assistance programs; and the administration of POR programs.

 The overriding goal of electric industry restructuring was to allow retail customers access to a competitive market for the generation of electricity. 66 Pa. C.S. §§ 2802(3) & (12), 2804(2). The purpose was to lower electricity costs, which would directly benefit consumers in the form of lower prices and indirectly benefit the Commonwealth itself by improving its ability to compete for industry and jobs. 66 Pa. C.S. §§ 2802(6) & (7). The General Assembly observed that electric costs in Pennsylvania were higher than the national average and that deregulation of electricity generation would foster competition, which would more effectively control costs than continuing the economic regulation of the generation function. Further, the General Assembly observed that certain transitional matters must be resolved to move toward greater competition in the electricity generation market. 66 Pa. C.S. §§ 2802(4), (5), (8) & (14).

 At the same time, since electric service is essential for modern life, the General Assembly wanted to ensure that consumers received safe, affordable, and reliable electric service at levels they enjoyed prior to deregulation. 66 Pa. C.S. §§ 2802(11) & (12), 2804(1) & (14). In addition, the General Assembly meant to protect low-income customers in the deregulated market, stating that the Commonwealth must continue the policies and programs—including making available and funding universal service programs—that allow low-income customers to afford electric service. 66 Pa. C.S. §§ 2802(10), 2804(9).

 For all customers, the General Assembly wanted to ensure transparency so that customers would be able to see the component charges making up their overall electric bills. This would allow customers to compare prices for generation service from their EDCs to the prices for generation service from competing EGSs. As such, the Commission was directed to require the unbundling of electric utility services, tariffs, and customer bills to separate charges for generation, transmission, and distribution. 66 Pa. C.S. § 2804(3).

 The General Assembly also made clear that EDCs would continue to be regulated as natural monopolies subject to the jurisdiction and active supervision of the Commission. EDCs would remain in the role of default service provider—unless the Commission approved another entity—to ensure the availability of universal electric service. 66 Pa. C.S. §§ 2802(16), 2804(6) & (10).

 NRG’s proposal to implement SCB, however, is not fully developed and leaves critical questions unanswered. Without having adequately addressed those questions, the Commission finds that NRG’s Petition may lead to outcomes that run counter to the General Assembly’s intentions regarding deregulation of the electric industry. NRG’s specific proposal may be harmful to customers and may not uphold current policies and programs to ensure that low-income customers can afford service.

**A. Termination of Service**

**1. NRG’s Proposal**

 NRG proposes that when an EGS offering SCB is owed money by a customer and termination of service is appropriate under Chapter 14 of the Public Utility Code[[45]](#footnote-45) and Chapter 56 of the Commission’s regulations,[[46]](#footnote-46) it will instruct the EDC to physically terminate the customer’s service.[[47]](#footnote-47) The EDC would then have five days to complete the disconnection or it would not be paid for any subsequent delivery charges to that customer.[[48]](#footnote-48) NRG acknowledges that it cannot order termination of service based on a customer’s nonpayment of non‑commodity VAS.[[49]](#footnote-49)

 NRG claims that EGSs offering SCB must have the power to order termination of service to nonpaying customers because without it EGSs would have no meaningful opportunity to collect amounts owed to them.[[50]](#footnote-50) NRG further claims that EGSs should not have to drop nonpaying customers and pursue collection because that would be contrary to 66 Pa. C.S. § 1402(2), the goal of which is to eliminate the opportunity for customers with the ability to pay their utility bills to avoid payment.[[51]](#footnote-51)

**2. Comments**

 Most commenters argue that NRG’s proposal to grant EGSs offering SCB the power to terminate service (1) would not preserve existing consumer protections; and/or (2) would not comply with the Public Utility Code and regulations promulgated thereunder.

 CAUSE PA states that NRG’s Petition does not provide sufficient detail to support the claim that NRG will preserve existing consumer protections.[[52]](#footnote-52) In fact, CAUSE PA noted that one element of NRG’s proposal—that an EDC complete disconnection within five days of being notified by the EGS—runs counter to 52 Pa. Code § 56.91(a), which requires that a customer receive written notice from the EDC at least ten days before termination.[[53]](#footnote-53)

 Calpine asserts that NRG’s proposal for implementation of SCB may not preserve existing consumer protections because important customer service functions would be shifted from a regulated public utility—the EDC—to largely unregulated EGSs that have more leeway in their operations. Calpine also claims that the obligations imposed on EDCs as default service provider justify their power to terminate service, and since EGSs do not have those obligations, they should not have the same power. Lastly, Calpine expresses concern with the disparate treatment that would result from implementation of SCB: namely that EGSs offering SCB would have the power to authorize termination of service but non-SCB EGSs would not.[[54]](#footnote-54)

 Duquesne, FirstEnergy, the Industrial Customer Alliances, the OCA, PPL, and TURN fear that customers who are accustomed to calling their EDCs for customer service issues will be confused by the fact that, under SCB, two companies would be involved in the termination process. These commenters claim that the customers’ confusion regarding which company to call to resolve termination questions could lead to improper termination and/or delayed reconnection.[[55]](#footnote-55) In addition, FirstEnergy and PECO assert that NRG’s Petition does not adequately address how information will be timely and accurately passed from the EGS to the EDC (for example, when a customer makes a payment or provides a medical certification) to stop termination protocols or to start reconnection.[[56]](#footnote-56)

 CAUSE PA, Duquesne, EAP, and PPL assert that through 66 Pa. C.S. §§ 2802(16) and 2807(d), the General Assembly made clear its intention that billing and the related activities of collection and termination of service remain with EDCs, which are regulated public utilities.[[57]](#footnote-57)

 FirstEnergy asserts that NRG’s Petition does not adequately address the legal basis for allowing EGSs to terminate service. FirstEnergy and the PA AFL-CIO note that under UCB, the EDC is owed money, therefore the EDC is permitted to terminate service to nonpaying customers. However, under NRG’s Petition, the EDC would no longer be owed any money because the EGS would have purchased its receivables. The commenters question the legal authority of the EDC to terminate service under these circumstances.[[58]](#footnote-58)

 The OCA notes that the requirements for customer service, including termination of utility service, contained in Chapter 14 apply to public utilities. 66 Pa. C.S. Ch. 14. Under 66 Pa. C.S. § 2809(e), the OCA points out that the Commission can require EGSs to maintain quality of service, but notes that the boundaries of the Commission’s authority—particularly with respect to billing and collections—have not been fully tested. As such, the OCA believes that the Commission’s authority to regulate EGSs’ behavior in terminating a customer’s electric service is uncertain.[[59]](#footnote-59)

 Lastly, PPL asserts that billing, collections, and termination of service are fundamental utility services best kept in the hands of a regulated utility and that NRG’s Petition does not adequately address a number of issues related to termination. These issues include (1) whether there are adequate safeguards to ensure proper termination; (2) the process for EGSs and EDCs to communicate regarding termination; (3) the consequences and mechanisms for reconnection if an EGS improperly directed an EDC to terminate a customer’s service; (4) which entity will provide notice of termination to the customer; and (5) which entity customers should contact regarding termination of service. Given these outstanding questions, PPL does not believe that consumers would be adequately protected from improper termination of service or undue delay in reconnection and therefore asserts that EDCs should retain the power to determine termination and restoration of service.[[60]](#footnote-60)

**3. NRG Reply**

 NRG, in response to the Comments regarding termination and restoration of service, stated that EGSs will communicate with the EDCs via Electronic Data Interchange (EDI) transactions. EGSs will initiate the termination process by sending an EDI transaction to the EDCs, which would verify that termination is authorized under Chapter 14. The EDC could reject the termination request based on Chapter 14 safeguards. Once service is terminated, and assuming payment is received from the customer, the EGS will provide notice to reconnect service to the EDC through EDI transaction.[[61]](#footnote-61)

 NRG asserts that EDCs will provide the required termination notices to customers and physically terminate service, while the EGSs will handle all other termination-related communications with customers. A more detailed allocation of duties will be determined by agreement between the EGS and EDC or by interim guidelines adopted by the Commission (to be followed by promulgation of regulations).[[62]](#footnote-62)

 In addition, NRG asserts that EGSs (1) will fully indemnify EDCs for the costs associated with improper termination of service and delay in reconnecting service caused by an error over which the EGSs have control;[[63]](#footnote-63) (2) will provide quarterly reports to the Commission with termination data which will allow the Commission to determine whether any changes are needed in the SCB termination process;[[64]](#footnote-64) and (3) will employ mechanisms to ensure that service is not terminated for nonpayment of VAS charges.[[65]](#footnote-65)

 In terms of legality, NRG asserts that its proposed methods for terminating service are not barred by the Public Utility Code because Chapter 14 does not preclude an EDC from terminating service even though it is not owed any money by the customer and was made whole when the EGS purchased its receivables. To the contrary, NRG argues, 66 Pa. C.S. § 1406(a), allows an EDC to terminate service for nonpayment and other reasons, so its proposal is in fact legal.[[66]](#footnote-66)

**4. Disposition**

 The Commission finds that NRG’s proposal regarding EGSs’ power to authorize the termination of service does not adequately address the consumer protection concerns raised by the commenters, may be unnecessary for EGSs to collect on debts owed by customers, and may not comply with the Public Utility Code. As such, the Commission will deny EGSs the authority to order the termination of customers’ electric service based on the lack of sufficient detail regarding EGS termination safeguards provided in this Petition.

**i. Consumer Protections**

 We agree with CAUSE PA, FirstEnergy, PECO, and PPL that NRG’s Petition does not provide sufficient detail to convince the Commission that existing consumer protections will be preserved. In fact, as CAUSE PA noted, NRG’s proposal that an EDC complete the disconnection within five days of being directed by the EGS expressly conflicts with 52 Pa. Code § 56.91(a), which requires that a customer receive written notice at least 10 days before termination.

 Other deficiencies regarding consumer protections include the following: First, while NRG contends that EGSs will communicate with EDCs via EDI transactions, it offers no evidence or assurance that information will be shared between EGSs and EDCs in a timely or accurate manner. Questions also remain regarding how quickly EGSs and EDCs will be able to coordinate reconnection efforts once payment is received from a customer. Given the harm that improper termination would cause to consumers, the Commission would require more detail regarding the speed and accuracy with which information will be passed along to EDCs. If customers make a payment, enter into a payment plan at the last minute, or present a medical certification, then the EGSs must ensure that the information is transmitted to the EDCs quickly so that termination can be avoided entirely or reconnection of service can begin immediately.

 Next, NRG recommends that EDCs provide required termination notices to customers and physically terminate service, while EGSs handle all other termination-related communications with customers. The prudency of this system of communications is not substantiated in the Petition. Rather, NRG fails to explain the merit of having customers receive a termination notice from their EDC, while then expecting customers to follow up on such notice with their EGS of record. Additionally, important details are lacking, such as whether or not an EDC sending a termination notice to a customer must include the EGS’s contact information on the notice.

 Customers are presently accustomed to directing distribution service related complaints and inquiries‑‑including those for billing, payment, and termination issues—to their EDCs. Under NRG’s proposal, customers’ bills would come from their EGSs and payment arrangements would be made with their EGSs, but termination notices and actual termination would be handled by their EDCs. This division of responsibility could confuse customers.

In addition to potentially being confusing for customers, the process could be unwieldy. A customer making a payment or providing a medical certification to prevent a threatened termination of service would have to communicate with the EGS. The EGS would then have to take that information and provide it to the EDC. This extra step—compared to the current situation where the EDC would be in direct contact with the customer—could cause communication delays, increasing the risk that customers would be subjected to an improper termination of service or delay in reconnection.

 The Commission agrees with the commenters who expressed concerns about increased customer confusion. The Commission finds that NRG’s proposal regarding termination of service could confuse customers and add steps for consumers attempting to have their termination of service inquiries addressed.

 Third, the Commission agrees with FirstEnergy and the PA AFL-CIO that the legality of an EDC terminating a customer’s service when that EDC is not owed any money has not been adequately addressed by NRG. Although NRG claims in its Reply Comments that Chapter 14 does not bar termination under the circumstances, we are not convinced that this assertion settles the matter. That Chapter 14 does not appear to expressly bar the EDC from terminating service when it is not owed money is not by itself a compelling reason to allow it.

 We also agree with PPL that NRG has not adequately explained the safeguards that EGSs would employ to ensure that an EGS-ordered termination of service is proper. Given the essential nature of electric service to Pennsylvania consumers, PPL notes that EDCs—which have years of experience complying with termination rules and regulations—use a checklist to help ensure that service is not terminated improperly, especially to those consumers that are stressed by serious economic and medical issues. Also, PPL “manually checks [a] home’s circumstances before terminating service” in the winter.[[67]](#footnote-67) NRG has not outlined the specific steps EGSs would take to ensure that termination of service is proper, aside from its broad claim that EGSs would follow the requirements of Chapter 14 of the Public Utility Code and Chapter 56 of the Commission’s regulations. Accordingly, we are not convinced that sufficient safeguards would be in place to prevent improper terminations.

 In addition, as discussed in more detail below in this section, the Commission agrees with CAUSE PA, Duquesne, EAP, the OCA, and PPL, that the Commission’s authority to require EGSs to follow the termination of service rules and regulations is questionable and has not been fully addressed by NRG.

 Lastly, and again as discussed in more detail in Section C below, the Commission agrees with the OCA and PECO that NRG’s Petition does not adequately address the issue of payments for VAS.[[68]](#footnote-68) Nonpayment of VAS—non-basic, non-utility charges—cannot serve as the basis for termination of a customer’s electric service in accordance with 52 Pa. Code § 56.83. Although NRG claims EGSs will employ mechanisms to ensure that electric service is not terminated for failure to pay VAS charges, NRG’s Petition and Reply Comments provide no detail regarding how they would ensure that. As such, the Commission is not convinced that adequate systems are in place to ensure that nonpayment of VAS does not lead to termination of service.

 NRG suggests that a more detailed allocation of duties be determined by agreement between EGSs and EDCs or, in the alternative, by interim guidelines adopted by the Commission (which would later be formally adopted via rulemaking). Because having numerous agreements between EGSs and EDCs would quickly become cumbersome, the Commission finds that adopting uniform interim guidelines to coordinate efforts between EGSs and EDCs would be appropriate. However, since we are denying this Petition, adoption of such guidelines and the subsequent promulgation of regulation is not necessary at this time.

 Since we are denying EGSs the authority to order termination based on the information provided in this specific Petition, the Commission also need not address NRG’s proposals regarding indemnification of EDCs for improper termination of service and quarterly reports of termination data at this time.

 Although NRG provided additional details about termination and restoration of electric service in its Reply Comments, there are still many important questions that have not been addressed, including (1) the legal basis for an EDC to terminate a customer’s service when the EDC has no outstanding bill with the customer; (2) the safeguards EGSs will employ to ensure proper termination of service; (3) assurances that the EDI transactions will be passed from the EGS to the EDC in a timely and accurate fashion; (4) the Commission’s authority to require EGSs to follow Chapter 14 and Chapter 56 requirements with respect to termination of service; and (5) methods to ensure that nonpayment of VAS will not lead to termination. The result of these open questions is an increased risk that customers could be subjected to an improper termination of service or delay in reconnection.

 One of the General Assembly’s goals for electric industry deregulation was to protect customers—particularly low-income customers—at the same level as before restructuring. *See* 66 Pa. C.S. §§ 2802(10), (11), and (12); 2804(1), (9), and (14); and 2807(d). Adopting NRG’s proposal could frustrate that goal. Without full guidelines for EGS-initiated termination of service and reconnections, giving an EGS the authority to initiate those actions introduces the potential risk of improper termination of service and delay in reconnection and increases the possibility that harm could come to customers.

**ii. Unnecessary**

 Also, NRG’s proposal to allow EGSs to direct the termination of a customer’s electric service may be unnecessary. NRG claims that EGSs need the power to terminate so they can collect amounts owed to them and to advance Chapter 14’s goal of eliminating the opportunity of a customer who can pay his electric bill to avoid payment; however, the Commission finds that the record in this proceeding lacks sufficient information to support these claims. An EGS owed money by a customer has options other than the threat of terminating service. The EGS may turn the debt over to collections or sue the customer for payment. The viability and cost of such a collection effort is uncertain, and compensation policies for this collection effort can vary depending on any future petition or Commission Order for SCB. The Commission finds that the record in this proceeding fails to support NRG’s request for EGSs to have the power to direct an EDC to terminate a customer’s electric service.

**iii. Noncompliant With The Public Utility Code**

 Lastly, the Commission finds that NRG’s specific proposal to allow EGSs, which are not public utilities, the power to terminate service may conflict with the Public Utility Code and the regulations promulgated thereunder. Chapter 14 of the Code provides protection to consumers related to billing and payment issues, including termination of service, and Chapter 56 of the Commission’s regulations identifies standards and billing practices for residential utility service. 66 Pa. C.S. Ch. 14 and 52 Pa. Code Ch. 56. The Chapter 14 provisions regarding cash deposits to initiate service, payment arrangements to avoid termination of service, lawful grounds for termination of service, and standards for reconnection of service are applicable specifically to “public utilities.” 66 Pa. C.S. §§ 1404, 1405, 1406 and 1407. These requirements are binding on public utilities, which includes EDCs, but not EGSs.[[69]](#footnote-69)

 CAUSE PA, Duquesne, EAP, the OCA and PPL correctly note the General Assembly’s intention that EDCs remain regulated public utilities.[[70]](#footnote-70) Although the billing and customer service requirements of Chapter 14 and Chapter 56 apply to public utilities, the OCA points out that under Section 2809(e) of the Public Utility Code, the Commission can require EGSs to maintain quality of service.[[71]](#footnote-71) However, we agree with the OCA that the Commission’s authority to regulate EGS behavior in terminating a customer’s electric service under Chapter 14 is questionable, if even permitted under the Public Utility Code. If an EGS does not follow the requirements of the Public Utility Code and corresponding regulations in carrying out termination, the Commission might not be able to enforce those rules, which would place consumers at great risk of harm from an improper shut off or delayed reconnection.

 An EDC is a regulated public utility required to serve all customers in its territory, so it is reasonable to grant it the power to terminate a nonpaying customer’s electric service. The General Assembly has made clear its intention that EDC’s continue to be regulated by the Commission and that they serve in the default service role—unless another provider of last resort is approved by the Commission—to ensure the availability of universal electric service.[[72]](#footnote-72) The default service provider (DSP) must provide electric generation service to retail customers who (1) have chosen an alternative supplier and their EGS does not provide the service or (2) have not chosen an alternative supplier.[[73]](#footnote-73)

 An EGS is not *required* to serve any customer. NRG wants EGSs offering SCB to have the power to terminate service for a customer’s failure to pay. The EGS, by deciding to terminate service, is effectively saying that it no longer wants to serve the customer. If the EGS does not want to serve the customer—and is not required to serve the customer—the default service provider is then obligated under 66 Pa. C.S. § 2807(e) to provide that service. Accordingly, one option may be for the EGS to drop the customer to default service and pursue any and all other available means to collect amounts owed by the customer, including amounts owed for VAS. Under the circumstances—the EGS dropping a nonpaying customer—66 Pa. C.S. § 2807(e)(3.1) would obligate the EDC to provide generation service to that customer. The EDC’s obligation to serve appropriately carries with it the power to terminate service. Since the EGS does not have that obligation, we find an EGS has less justification for it to have the power to terminate service. While the Code[[74]](#footnote-74) and regulations[[75]](#footnote-75) permit the Commission to identify a supplier as the default service provider for any given service territory or for specific customer classes, NRG has not proposed to take on that role in this Petition.

 The provisions of Chapter 14 and Section 2807(d) make clear that the consumer protection function remains a core responsibility of the EDC. Under Section 2807(d), consumer protection and customer service are among the duties that are allocated to EDCs. 66 Pa. C.S. § 2807(d). And each of the key provisions in Chapter 14 regarding the connection, termination and reconnection of service are obligations placed on public utilities. 66 Pa. C.S. §§ 1404, 1405, 1406 and 1407.[[76]](#footnote-76) And just as an EDC may not delegate its statutory obligation to offer time-of-use rates to third-parties[[77]](#footnote-77), the EDC may not delegate its consumer protection obligations to EGS firms, especially as to the connection, termination and reconnection of electric service. Moreover, in the Commission’s judgment, adequate protection against an unjust, unreasonable or erroneous termination of electric service is the ultimate metric for consumer protection under the Public Utility Code.

 The Commission finds that NRG’s proposal to permit EGSs offering SCB to terminate a customer’s electric service is not in the public interest. NRG’s proposal regarding the power of EGSs to terminate service—given the outstanding issues it does not adequately address and the risk of improper termination of service or delay in reconnection that it carries—does not sufficiently protect Pennsylvania’s electric consumers from harm. Finally, NRG’s specific proposal does not comply with Chapter 14 of the Public Utility Code or Chapter 56 of the Commission’s regulations.

**B. Block Mechanism**

**1. NRG’s Proposal**

 NRG proposes that EGSs offering SCB have the power to block customers who have made payment arrangements from switching to another supplier or back to their EDC until they have paid their past due bills in full. NRG claims EGSs need that mechanism to ensure that customers on payment arrangements cannot use their ability to switch suppliers to avoid paying past due charges.[[78]](#footnote-78)

**2. Comments**

 CAUSE PA, Calpine, Duquesne, and PECO oppose NRG’s proposed block mechanism, claiming it will harm customers and is contrary to the Competition Act’s fundamental principles of customer choice and competition among suppliers. CAUSE PA and PPL claim that customers on a payment plan will effectively be trapped, unable to take advantage of a better offer that might come along. PECO further asserts that it is not clear whether it is legal to force a customer to stay with a given supplier.[[79]](#footnote-79)

**3. NRG Reply**

 Based on these comments, NRG removed the block mechanism from its proposal; however, NRG noted that it reserves the right to reintroduce the mechanism in the future should SCB be implemented and problems arise with customers switching suppliers to avoid paying past due amounts.[[80]](#footnote-80)

**4. Disposition**

 While NRG withdrew the block mechanism from its proposal, the issue is not moot since NRG has asserted that it reserves the right to revisit the issue in the future. Accordingly, the Commission will address the issue in this proceeding. NRG’s proposed block mechanism would potentially be harmful to customers and Pennsylvania’s competitive retail electric market.

 The Commission agrees with CAUSE PA and PPL that NRG’s block mechanism would harm Pennsylvania’s residential electric consumers. It would effectively trap consumers in a relationship with their current supplier. These customers—likely low-income customers who benefit most from having the ability to switch suppliers—would not be able take advantage of lower cost offers.

 Also, NRG has not addressed the specifics of how an EGS would treat a blocked customer. For example, if customers are forced to remain with an EGS, what rate would they pay for generation supply? Would the customers continue to pay at the original contract rate in effect when they signed up for service? Would they pay the same rate they were paying when the block went into effect? Would blocked customers pay a fixed or variable rate? Would an EGS include a finance charge in the rates of delinquent customers? Without more detail from NRG, the Commission can only speculate as to how an EGS would treat delinquent customers. As things stand, it appears that an EGS would be given a great deal of latitude and discretion, potentially resulting in customers being forced into adhesion contracts they may not be able to get out of until their service is terminated. The Commission cannot put customers at such risk based on such a vague proposal.

 Further, the Commission agrees with CAUSE PA, Calpine, Duquesne, and PECO that preventing customers from switching suppliers would frustrate the purpose of the Competition Act, to lower electricity costs by allowing customers to choose their EGS.[[81]](#footnote-81)

By limiting customer choice, NRG’s block mechanism would also harm the competitive retail electric market in general. Taking away a customer’s ability to switch suppliers is inherently anticompetitive and contrary to the Competition Act’s goal of lowering electricity costs by introducing competition to Pennsylvania’s retail electric market.[[82]](#footnote-82)

 The Commission finds that the proposed block mechanism is unnecessary. As we discussed above, EGSs offering SCB have options for handling delinquent accounts, including turning them over to collections or suing delinquent customers for payment, as suppliers that offer dual billing do. There is no evident justification for allowing EGSs to prevent customers from switching suppliers considering the harm it could do to those customers and the retail electric market in general.

 In addition, the Commission agrees with PECO that NRG has not adequately addressed the legal basis for requiring a delinquent customer to remain with a supplier. NRG’s Petition in that regard is not fully developed. Given the harm to consumers and the retail electric market in general that would result from adoption of NRG’s block mechanism, it is not in the public interest to allow it.

 The Commission finds that NRG’s proposal to permit EGSs offering SCB to block delinquent customers from switching suppliers has not been fully developed and is not in the public interest. NRG’s proposed block mechanism would harm Pennsylvania’s electric consumers and the competitive retail electric market in general. Further, it may be unnecessary to allow EGSs to prevent switching by delinquent customers because they may have other viable options to collect outstanding debts.

**C. Value-Added Services & Low-Income Programs**

**1. NRG’s Proposal**

 With implementation of SCB, NRG proposes to offer VAS to customers in addition to its generation services. VAS offered by EGSs could include home security, HVAC maintenance, surge protection, and other services associated with smart meter deployment that will allow their customers to become smarter energy consumers.[[83]](#footnote-83)

 According to NRG, UCB limits the ability of EGSs to offer VAS because they cannot bill for those products on a UCB bill. The result is that consumers are denied the opportunity to benefit from the innovative products and services EGSs could otherwise offer. Implementation of SCB, NRG asserts, would allow EGSs to bill customers for VAS—along with all basic utility charges—on a single bill. EGSs would then be able to offer VAS, which would encourage EGSs to invest in Pennsylvania and to compete by creating new products and services to offer customers. Ultimately, NRG claims, that competition, and the product and service options it would bring about, would benefit consumers and Pennsylvania’s retail electric market in general.[[84]](#footnote-84)

 In addition, NRG acknowledges that a customer’s electric service cannot be terminated for nonpayment of those VAS.[[85]](#footnote-85)

 With regard to low-income programs such as the Low-Income Home Energy Assistance Program (LIHEAP) and Customer Assistance Programs (CAPs), NRG claims that SCB will not have an impact. According to NRG, customer eligibility for the programs will not be affected by SCB, and EDCs should continue to administer them. NRG proposes that EDCs calculate the customer’s subsidy and payment amount, pass that information on to the EGS via EDI transaction for inclusion on the customer’s bill, and forward the corresponding LIHEAP or CAP grant to the EGS. Regarding hardship funds, NRG states that EGSs offering SCB *may* allow customers to add money to their payments as a donation to the funds, which are used to help low-income customers pay their electric bills.[[86]](#footnote-86)

**2. Comments**

 Direct Energy and RESA support NRG’s assertion that EGSs cannot bill for VAS on a UCB bill and are therefore reluctant to offer them. That problem, they claim, would be eliminated with SCB, which would allow consumers to benefit from the innovative products and services the EGSs would then be able to offer.[[87]](#footnote-87)

 CAUSE PA, the OCA and PECO express concerns regarding payments for the VAS that EGSs would offer if SCB were implemented. CAUSE PA is concerned that those products will curtail the ability of low-income customers to access safe, reliable electric service.[[88]](#footnote-88) The OCA notes that VAS charges are last in the line of priority for payment and nonpayment of them cannot serve as the basis for termination of service. The OCA fears that consumers, who likely would not know those things, would struggle needlessly to pay the total bill amount for fear that their electric service could be terminated.[[89]](#footnote-89) PECO claims that NRG’s Petition does not make clear how EGSs would ensure that VAS charges are last in line for payment and that nonpayment of them does not result in termination of service. Further, PECO asserts that EGSs must develop mechanisms to ensure priority of payment so that nonpayment of VAS does not trigger termination.[[90]](#footnote-90)

 The OCA is concerned that EGSs will struggle to comply with the Commission’s regulations and orders governing the application of payments received from customers. Given the continuing effort EDCs put into the issue and given the fact that EDC tariffs contain detailed provisions for applying payments received, ordering payments received, and applying partial and late payments, the OCA worries that the EGSs’ inexperience with this issue will have a negative impact on consumer protections.[[91]](#footnote-91)

 FirstEnergy notes that a number of the products and services NRG suggests EGSs would be able to offer under SCB will not be possible until smart meter deployment is completed throughout the Commonwealth.[[92]](#footnote-92) Further, FirstEnergy points out that NRG’s Petition does not adequately address issues regarding how VAS will be handled. First, no sample bill was provided to establish whether the bill would follow the bill format provisions of the Commission’s regulations. Second, given NRG’s flat bill proposal, FirstEnergy questions how a consumer would be able to distinguish between basic and non-basic charges on his/her utility bill. That blurring of information, according to FirstEnergy, raises an important customer protection question since electric service cannot be terminated for failure to pay non-basic charges.[[93]](#footnote-93)

 Regarding low-income programs such as LIHEAP and CAPs, CAUSE PA, Duquesne, the OCA, PECO, PPL, and TURN assert that NRG has not provided sufficient information to assess SCB’s effects on the programs. They question how the programs would operate under SCB and whether appropriate consumer protections would be maintained.

 Specifically, CAUSE PA and Duquesne question how the programs would be administered and how EGSs would ensure that protections to assist low-income customers remain in place. They also note that NRG wants to determine how to handle LIHEAP credits through an informal stakeholder group convened *after* SCB is approved. However, they believe that given the importance of electric service to customers, issues regarding LIHEAP must be addressed *before* SCB could be approved. In addition, CAUSE PA points out that CAP programs vary with each EDC and the credit is sometimes calculated based on the customer’s full bill, which the EDC will not know because it will not have access to the EGS’s generation supply charges.[[94]](#footnote-94) Further, CAUSE PA and TURN assert that the Pennsylvania Department of Human Services (DHS), which administers LIHEAP, expressly prohibits suppliers from receiving LIHEAP grants.[[95]](#footnote-95)

 TURN also asserts that EGSs cannot serve in a billing role for CAP customers because of the EDCs’ statutory obligation to identify customers who are eligible for CAPs. 66 Pa. C.S. § 1410.1(2). Further, TURN points to other issues—such as enrollment of new CAP customers and new CAP arrearages—which NRG did not address in its Petition.[[96]](#footnote-96)

 The OCA claims that if NRG wants to serve low-income customers, it must address the receipt of LIHEAP funds and EGS participation in CAP. LIHEAP would require EGSs to enter into vendor agreements with DHS. CAP programs operate differently throughout Pennsylvania, and CAP credits would have to be portable. None of these issues, according to the OCA, have been addressed. The OCA also claims that low-income consumers will be harmed if EGSs do not allow customers to make hardship fund donations along with their bill payments. Making it more difficult for customers to donate to hardship funds will likely reduce donations.[[97]](#footnote-97)

 PECO notes that NRG has not addressed issues relating to its dual gas and electric customers. According to PECO, it bills customers for both services at the same time. When PECO receives a LIHEAP grant for a dual customer, it is not divided between gas and electric service. The grant is applied first to the customer’s past due bills, then to the current bill, and finally, if there are any excess funds remaining, they are credited to the customer’s account. Further, PECO claims that EGSs would have to become authorized vendors of DHS to accept LIHEAP funds. PECO fears that customers—who have named PECO as the vendor to receive their LIHEAP grants for years—will need to be informed of the change in vendor to avoid confusion and possible delay in receiving assistance. Regarding its CAP, PECO claims that it often refers customers to the program after learning of the customer’s possible eligibility during a customer service call. PECO questions whether EGSs will do that when they are handling most customer service calls under SCB.[[98]](#footnote-98)

 PPL notes that subsidies for low-income programs such as LIHEAP and CAP are based on the customer’s entire bill. If the EDCs are to continue administering the program, PPL claims, EGSs will have to provide their charges to the EDCs so they can calculate the subsidies. Also, PPL asserts that most LIHEAP and CAP participants are referred to the program by PPL customer service representatives and notes that NRG’s Petition does not include a requirement to refer customers to LIHEAP if they may qualify. Finally, PPL states that NRG’s Petition does not delineate customer service functions between EDCs and EGSs with regard to low-income programs (such as which entity is responsible for warning customers as they approach subsidy limits and for notifying customers about budget billing and payment arrangements).[[99]](#footnote-99)

**3. NRG Reply**

 NRG reiterates its position that implementation of SCB would allow for basic utility charges and charges for non-basic products and services—which are now absent from the Pennsylvania market dominated by UCB—to appear on one bill. In addition, NRG claims that the Commission, Direct Energy, RESA, and WGL Energy support the enabling EGSs to offer VAS so that consumers have access to a wide array of innovative products and services, which will encourage shopping and thereby enhance the competitive retail electric market.[[100]](#footnote-100)

 In response to claims that its Petition does not provide enough detail to allow the Commission to grant it, NRG claims that it is not required to include detailed procedures for its proposals.[[101]](#footnote-101)

 Further, regarding termination of service for nonpayment of VAS, NRG points out that it already acknowledged in its Petition that a customer’s electric service cannot be terminated for failure to pay non-basic charges (that is, charges for VAS). NRG notes that the rules do not allow for termination under those circumstances, so EGSs offering SCB would have to adopt procedures and mechanisms to prevent it.[[102]](#footnote-102)

 Regarding the operation of low-income programs such as LIHEAP and CAP, NRG asserts that call center representatives of EGSs offering SCB would be trained to make referrals to the programs. However, to reduce the number of other outstanding issues related to the administration of low-income programs, NRG proposes that EGSs offering SCB not serve customers who receive LIHEAP and/or CAP subsidies. If a customer receiving the subsidies signed up for service with an EGS offering SCB, the enrollment transaction sent by the EGS would be flagged and rejected by the EDC. Further, if an existing SCB customer began receiving LIHEAP or CAP subsidies, the EDC would send a drop transaction to the EGS.[[103]](#footnote-103)

 NRG reserves the right to revisit the issue of serving LIHEAP and CAP customers in the future after SCB is implemented. It also says that in the meantime, the Commission should consider a statewide solution to make the subsidies portable.[[104]](#footnote-104)

 Finally, with regard to PECO’s concerns about the effect of SCB on its dual (gas and electric) service customers, NRG claims the Commission should not consider them. According to NRG, those issues are driven by PECO’s business operations and they should have no bearing on whether SCB is implemented.[[105]](#footnote-105)

**4. Disposition**

 Regarding EGSs billing and collecting payment from customers for VAS, the Commission shares the concerns expressed by the OCA, PECO, and FirstEnergy. Commission regulations dictate that charges for VAS must appear separately on customers’ bills, are last in line of priority for payment, and cannot serve as the basis for termination of service. 52 Pa. Code §§ 56.13, 56.23, 56.24, and 56.83. Although NRG acknowledged that a customer’s electric service cannot be terminated for nonpayment of VAS and asserted that EGSs offering SCB would have to adopt procedures to ensure that does not happen, the Commission finds that NRG has failed to provide enough information in its Petition to guarantee appropriate consumer protection.

 NRG’s Petition simply does not provide sufficient detail to allow us to conclude that EGSs will adhere to the priority of payment regulations. As the OCA noted, EDCs—which have been dealing with the billing regulations for years and have detailed provisions in their tariffs for applying payments that have been reviewed and approved by the Commission—continue to have discussions with other stakeholders regarding the billing requirements.

 Given the importance of the priority of payment regulations to consumers, particularly in an SCB environment where EGSs are offering VAS, and the EGSs’ inexperience with those intricate regulations, NRG’s proposal does not adequately address the associated issues. Under the circumstances, NRG has not met its burden of showing that its proposal for handling VAS and low-income programs complies with all statutory and regulatory requirements.

 NRG’s Petition does not adequately ensure that EGSs take appropriate measures to mitigate the risk of an improper allocation of customer payments. For example, NRG has not addressed how payments will be allocated to accounts with amounts past due from prior months. An SCB bill would have three components: (1) the EGS’s generation supply and transmission charges; (2) the EDC’s distribution charges; and (3) any applicable VAS charges. NRG’s proposal does not address how a partial payment on an account with arrearages will be handled. It does not address whether payments will be allocated to past due or current balances first. Nor does it address which types of charges payments will be applied to first.

 Considering the essential nature of electric service to customers, the Commission finds that without concrete policies and procedures in place to address customer payment allocations, NRG’s has failed to meet its burden of establishing that EGSs offering SCB will comply with all statutory and regulatory requirements regarding the allocation of payments received from customers.

 With regard to LIHEAP and CAP customers, although NRG modified its proposal to provide that EGSs offering SCB not serve them, the Commission will address the issue in this proceeding because NRG has asserted that it may want to revisit the issue in the future. Initially, NRG claimed that the programs would not be affected by the implementation of SCB and that EDCs would continue to administer the programs while forwarding to EGSs the necessary information for EGSs to bill customers. The Commission agrees with CAUSE PA, Duquesne, the OCA, PECO, PPL, and TURN that NRG did not provide sufficient information to allow us to assess the impact SCB would have on the programs.

 Issues not adequately addressed by NRG include (1) how the programs would be administered by EDCs when EGSs are responsible for billing customers; (2) how EGSs would ensure that protections to assist low-income customers remain in place; (3) how the EDCs—which will not have access to EGS generation charges—will calculate CAP credits that are based on the customer’s total bill; (4) how EGSs will receive LIHEAP grants when DHS expressly prohibits suppliers from doing so; (5) the portability of CAP credits; (6) dealing with CAP arrearages; and (7) which entity would be responsible for warning customers as they approach subsidy limits.

 Further, the Commission agrees with CAUSE PA and Duquesne that we cannot—as NRG initially proposed—deal with the issue of LIHEAP credits *after* SCB has been implemented. Given the importance of electric service, particularly in cold weather, any issues regarding LIHEAP must be addressed *before* SCB could be implemented.

 NRG’s proposal to bar LIHEAP and CAP customers from purchasing generation supply from EGSs offering SCB may conflict with the Commission’s authority to dictate what the EGS role is for CAP customers. While the Commission has approved a plan by PPL to limit the ability of customers in its CAP to shop only with suppliers participating in its CAP standard offer program,[[106]](#footnote-106) the Commission’s authority to set such a limit is currently before the Commonwealth Court.[[107]](#footnote-107) Accordingly, the Commission is reluctant to set further limits without a more developed record and until after the Commonwealth Court rules in *RESA v. Pa. PUC*, 230 C.D. 2017.

 As such, the Commission finds that NRG’s proposal has not adequately addressed the accounting for VAS charges or the administration of low-income customer assistance programs. Given the General Assembly’s expressly stated policy of protecting low-income customers so they can afford electric service, 66 Pa. C.S. §§ 2802(10), 2804(9), and the fact that NRG’s proposal leaves many significant questions unanswered, the Commission must deny NRG’s Petition.

**D. Anticompetitive**

**1. NRG’s Proposal**

 NRG broadly makes claims that implementation of SCB would enhance competition in Pennsylvania’s retail electric market. It would allow EGSs to directly bill their customers, which would improve their relationships with their customers. These improved relationships would foster trust among customers, making them receptive to purchasing additional products and services offered by EGSs. The EGSs would then compete to attract customers by offering the best products and services, in addition to electric generation service. That, in turn, would encourage EGSs to invest in Pennsylvania. All of this, according to NRG, would lead to more choices for consumers and a more robust competitive retail electric market.[[108]](#footnote-108)

 While acknowledging that the Commission has implemented a number of changes over the years to improve the retail electric market, NRG claims that retail shopping and electric competition in Pennsylvania have remained stagnant over the last five years. Further, according to NRG, the ability of EGSs to offer VAS has been limited by UCB, which does not allow EGSs to place VAS charges on customer bills. Ultimately, NRG states that implementation of SCB would allow EGSs to offer and bill for additional products and services, which will stimulate the robust competition in the retail electric market that the General Assembly envisioned when it restructured the electric industry in 1996.[[109]](#footnote-109)

 Implementation of SCB, according to NRG, would also allow EGS to offer customers a “flat bill,” which would enable customers to decide how much they want to spend on electricity and manage their usage accordingly. The flat bill would display EDC charges as a single, combined price on the SCB bill. Further, NRG proposes that EGSs have the option to absorb any increase in distribution rates without passing them on to customers.[[110]](#footnote-110)

 According to NRG, EGSs offering SCB would have to meet more stringent financial/bonding requirements than are currently required to maintain their licenses. Further, they would have to demonstrate technical expertise to perform billing and customer service functions.[[111]](#footnote-111) Also, implementation of SCB would require the Commission to clarify or revise as necessary EDC-administered programs, such as standard offer programs (SOP), to allow for participation whether the EGS uses UCB or SCB.[[112]](#footnote-112)

 NRG claims that the costs to implement SCB would not be excessive because a significant amount of work has already been done by the Electronic Data Exchange Working Group (EDEWG) and protocols established by NRG in Texas for SCB could be adopted in Pennsylvania. In terms of consumer education, NRG proposes that EGSs offering SCB bear the costs of explaining SCB to consumers “during the sales transaction and through disclosure documents.” Further, NRG claims that EDC overhead costs should decrease as a result of EGSs taking over billing and customer service functions for SCB customers.[[113]](#footnote-113)

**2. Comments**

 Direct Energy, RESA, and WGL Energy agree with NRG that implementation of SCB would spur competition in Pennsylvania’s retail electric market.[[114]](#footnote-114)

 Several EDCs assert that NRG’s size and experience using SCB in Texas provide it with a competitive advantage that will either drive smaller EGSs out of the market or discourage other EGSs from entering the market, ultimately to the detriment of consumers and Pennsylvania’s retail electric market in general. FirstEnergy, PPL, and UGI claim that NRG has a head start because it already has the billing and customer service infrastructure in place in Texas that it can leverage to increase market share and hobble other EGSs that have fewer resources and less expertise.[[115]](#footnote-115) PECO asserts that smaller EGSs may not have the ability to post the increased collateral proposed by NRG, so they would be unable to participate in SCB or offer VAS to customers.[[116]](#footnote-116) Further, PPL claims that smaller EGSs may not be able to offer competing VAS or to absorb EDC rate increases, limiting their ability to offer SCB.[[117]](#footnote-117) RESA, on the other hand, asserts that it is not clear that larger EGSs will have a competitive advantage and claims that the Commission should be skeptical of claims that implementation of SCB will harm competition by driving out smaller EGSs.[[118]](#footnote-118)

 Also, a number of commenters claim that NRG’s flat bill proposal is anticompetitive because it limits the ability of customers to comparison shop. CAUSE PA, Calpine, the Industrial Customer Alliances, the OSBA, PECO, and PPL assert that having EDC charges appear on the SCB bill as a single, consolidated amount would obscure price information necessary to allow customers to compare offers. As such, the commenters claim, the ability to shop for electric generation—and by extension competition in the retail electric market in general—would be harmed.[[119]](#footnote-119)

 In addition, some commenters state their belief that EGSs offering SCB will not participate in voluntary Standard Offer Programs (SOPs). CAUSE PA, the OCA, and PECO assert that implementation of SCB would call into question the existence of SOPs, a great facilitator of electric shopping, because EGSs offering SCB would have no incentive to provide call center callers with information regarding offers from competitors. The commenters note that eliminating SOPs would harm consumers by limiting the information they receive about offers from other EGSs and therefore may pose a barrier to new EGSs attempting to enter Pennsylvania’s retail electric market, which would have an anticompetitive effect on the market.[[120]](#footnote-120)

 Finally, a number of commenters claim that the costs of implementing SCB will be prohibitively high. CAUSE PA, Citizens & Wellsboro, Duquesne, FirstEnergy, the Industrial Customer Alliances, the OCA, PA AFL-CIO, PECO, PPL, TURN, and UGI claim that the costs of implementation will be high because (1) complex and contentious issues still need to be resolved; (2) consumer education will be necessary to explain the new billing method and resulting division of customer service responsibilities; (3) the Commission’s oversight burden will be increased; (4)  the previous work of EDEWG that NRG is relying on will have little relevance now since Chapter 14 of the Public Utility Code was enacted in 2004 and recently amended; (5) the Texas SCB protocols on which NRG is relying may not translate to Pennsylvania’s retail electric market; (6) EGSs will need to create or upgrade their billing systems; and (7) EDC overhead costs for call center operations will not go down measurably—if at all—because they will still be serving default service customers and customers of EGSs that do not offer SCB, and they will have to maintain some level of stand-by capacity to serve SCB customers who are abandoned or return to default service.[[121]](#footnote-121)

 The OCA concludes that the costs of creating, expanding, and operating call centers for EGSs offering SCB will be reflected—one way or another—on customers’ electric bills. The OCA believes that EGSs will either (1) factor those costs into the price per kilowatt hour (kWh) charged to customers or (2) add a separate fee to customers’ bills to recover the costs. Either way, the OCA claims, the bills would violate the Competition Act’s requirement that information be provided to consumers in an understandable format that enables them to compare offers. 66 Pa. C.S. § 2807(d)(2).

 CAUSE PA, Calpine, and the OCA, assert that some or all of the costs of implementation should be borne by the EGSs that offer SCB.[[122]](#footnote-122) According to the OCA, if an EGS adds the costs to the price per kWh, the offer would appear less competitive when compared to other suppliers. But if the costs are added as a separate fee, the EGS’s price per kWh would appear lower than other suppliers. Either option, the OCA claims, would violate Section 2807(d)(2) of the Competition Act by reducing billing transparency and customers’ ability to comparison shop, which would be contrary to the goal of fostering competition.[[123]](#footnote-123)

**3. NRG Reply**

 NRG reiterates its belief that implementation of SCB would improve competition in Pennsylvania’s retail electric market and claims that those opposed to its Petition are acting in an anticompetitive manner by trying to limit the choices available to electric customers in the Commonwealth.[[124]](#footnote-124) Regarding the competitive advantage commenters claim NRG would have over smaller EGSs, NRG asserts that the effect on smaller EGSs is not a proper concern of the EDCs. Direct Energy, RESA, and WGL Energy support NRG’s Petition, with no EGS opposing it.[[125]](#footnote-125)

 Regarding flat bills, NRG acknowledges the commenters who noted that the proposal appears to violate the Public Utility Code, *See* 66 Pa. C.S. §§ 2807(c)(1) and 2807(d)(2), and states that flat bills were mentioned only as an example of the services EGSs could offer under SCB. NRG further states that flat bills are not a fundamental component of its proposal and that any changes or waivers to Commission regulations necessary to allow flat bills can be addressed later. Lastly, NRG claims that nothing precludes an EGS from absorbing EDC rate increases rather than passing them on to consumers.[[126]](#footnote-126)

 In response to claims that EGSs will not participate in SOPs, NRG claims that EGS customer service representatives would be trained to pass along messages to customers about EDC programs, including SOPs.[[127]](#footnote-127)

 In terms of the comments on cost, NRG disputes that the costs of implementing SCB—including costs for increased Commission oversight, duplication of services between EDC and EGS call centers, and the additional work necessary—would be prohibitively high.[[128]](#footnote-128)

**4. Disposition**

 While we acknowledge the claims in NRG’s Petition and Reply Comments that SCB (1) will improve competition; (2) will strengthen relationships between EGSs and their customers; (3) will make customers more receptive to purchasing the VAS that EGSs will be able to offer; (4) will rectify stagnation in the retail market; (5) will allow customers to receive a flat bill and other services to better manage electric costs and usage; and (6) will not be excessively costly to implement, the Commission is not required to address each claim.

 The Commission is not required to expressly consider all the arguments set forth by the various stakeholders in this proceeding. *Metro. Edison Co. v. Pa. Public Utility Commission*, 22 A.3d 353, 371 (Pa. Cmwlth. 2011). NRG proposes that EGSs utilizing SCB meet more stringent financial/bonding requirements to maintain their licenses, demonstrate greater technical expertise to perform billing and customer service functions, and be allowed to absorb EDC rate increases rather than passing those costs on to consumers. As noted above, several commenters object to these proposals, claiming that many EGSs will be placed at a competitive disadvantage because they may be unable to post collateral, offer competing VAS, or absorb increased distribution costs from EDCs. The Commission finds that NRG’s SCB Petition, if approved, may not improve Pennsylvania’s retail electric market. We do not rely on the commenters’ objections to the proposals directly above in reaching our conclusion. Any issue that we do not specifically address has been duly considered and will be denied without further discussion.

 In the Commission’s judgment, implementation of SCB as proposed by NRG could harm Pennsylvania’s retail electric market by introducing anticompetitive forces into the market. The stated purpose of electric industry restructuring is to lower prices for consumers by fostering competition among suppliers. 66 Pa. C.S. §§ 2802(3), (4), (5), (12), & (13).

 As noted in Section B above, NRG’s proposed mechanism to block customers on a payment plan from switching suppliers until their bills are paid in full is anticompetitive. It would frustrate the purpose of the Competition Act by preventing customers from choosing their EGS,[[129]](#footnote-129) and harm Pennsylvania’s competitive retail electric market in general by limiting customer choice. Also, as noted by CAUSE-PA, the OCA and PECO, if NRG’s proposal is adopted there is concern that it could negatively impact SOP, however, it is uncertain what the extent of that impact would be.

 Although we agree with CAUSE PA, Citizens & Wellsboro, Duquesne, FirstEnergy, the Industrial Customer Alliances, the OCA, the PA AFL-CIO, PECO, PPL, TURN, and UGI that there would be costs associated with implementation of SCB, there has not been enough evidence presented for the Commission to conclude that cost alone is an insurmountable barrier to adoption of SCB.

 NRG argues that EDCs’ overhead costs would likely decrease if SCB were implemented since their call centers would be serving fewer customers, a point disputed by Citizens & Wellsboro, Duquesne, the PA AFL-CIO, PECO, & PPL. However, NRG has not adequately addressed those costs. As such, the Commission simply does not have enough information to draw any final conclusions regarding the effect implementation of SCB would have on EDC overhead costs or customer bills and the ability of customers to comparison shop for electric generation services.

 The Commission finds that NRG’s proposals for the block mechanism would have an anticompetitive effect on Pennsylvania’s retail electric market. We also find that issues associated with the costs of implementation and their potential effect on the market have not been adequately addressed by NRG. The detrimental effects of NRG’s proposal could harm Pennsylvania’s electric customers and the competitive retail electric market in general and would be contrary to the General Assembly’s goal of fostering competition to benefit consumers in the form of lower electricity prices. *See* 66 Pa. C.S. §§ 2802(3), (12), (13) and 2804(2).

**E. Purchase Of Receivables Programs**

**1. NRG’s Proposal**

 NRG proposes that to offer SCB, EGSs would be required to purchase the EDCs’ receivables in full (that is, with no discount). EDCs would calculate their transmission and distribution charges for each customer and send that information to the EGSs. The EGSs would then pay the EDCs—within 30 days—the full value of those charges. According to NRG’s Petition, the EGSs would then be responsible for billing customers and collecting payment and would assume the risk of uncollectible accounts currently borne by EDCs under UCB.[[130]](#footnote-130)

**2. Comments**

 The Commenters raise a number of questions and point to a number of potential issues regarding POR programs under SCB. CAUSE PA, the OCA, the OSBA, and PECO question the cost of implementing SCB and how many EGSs would forgo UCB, where the EDCs purchase the EGSs’ receivables and bear the burden of uncollectible accounts, to offer SCB, under which the EGSs would have to purchase the EDCs’ receivables and bear the risk of bad debts.[[131]](#footnote-131)

 FirstEnergy argues that the POR programs cannot lawfully operate in reverse: that is, with EGSs purchasing the receivables of EDCs. Currently, FirstEnergy points out, the EDCs purchase the receivables of the EGSs. The EDCs are owed money from customers, but the EGSs are not (because they have been paid by the EDCs). So, when customers do not pay for electric service, EDCs are justified in terminating service. Under SCB as proposed by NRG, the EDCs would be paid for their distribution charges by the EGSs, which would then collect from the customer. If the customer did not pay, the EGSs would be owed money, not the EDCs. FirstEnergy and the PA AFL-CIO questions how EDCs could terminate service under those circumstances and point out that NRG did not address the issue in its Petition.[[132]](#footnote-132)

 Duquesne PECO, and PPL note the risk to EDCs from an EGS’s failure to pay for receivables. Specifically, Duquesne does not believe it should be required to rely on another entity to bill for its services and transmit funds to it. Duquesne also asserts that whatever heightened financial requirements might be set for EGSs offering SCB, they are not enough to cover the risks faced by EDCs from fraud, misconduct, and system or personnel failures.[[133]](#footnote-133) PECO asserts that NRG’s assurances regarding heightened financial requirements are insufficient because EGSs would always be holding one month of EDC charges earned but not yet paid by the EGS. PECO further claims that EDCs would need to feel confident that (1) the EGSs would pay the money owed; (2) in the event of an EGS default, customers would be given credit for amounts paid to the EGS for their EDC charges; and (3) EDC shareholders would not be harmed by the POR program.[[134]](#footnote-134) PPL notes that NRG does not propose anything specific regarding the amount of financial security EGSs offering SCB should provide, although it asserts the amount should be substantially in excess of current bonding requirements to cover potential damages from wrongful termination of service and the EDC’s charges if the EGS fails to pay the EDC’s receivables.[[135]](#footnote-135)

 The OSBA also points to the potential anticompetitive effect of the POR program as proposed by NRG. The OSBA asserts that NRG’s proposal is so generous as to practically be too good to be true. The OSBA believes the POR proposal may be a ploy by NRG to make SCB unattractive to potential EGS entrants and that NRG may try to change the POR programs once SCB is in place.[[136]](#footnote-136)

**3. NRG Reply**

 NRG implies in its Reply Comments that other EGSs would offer SCB because (1) Direct Energy, WGL Energy, and RESA support NRG’s Petition and (2) in November 2014 EGSs “were clamoring for the ability to add charges for non‑commodity energy related products and services and for allowing SCB.”[[137]](#footnote-137) NRG also argues that the Public Utility Code, 66 Pa. C.S. § 1406(a), allows an EDC to terminate service for nonpayment and that since nothing in Chapter 14 prevents termination for nonpayment to an EGS, an EDC can legally terminate service to a customer who has not paid the EGS.[[138]](#footnote-138)

 Although in its Petition NRG stated that the purpose of its proposed heightened financial requirements was to “enhance consumer protections,”[[139]](#footnote-139) based on the comments of Duquesne, PECO, and PPL, NRG addressed financial requirements as they relate to an EDC’s receivables.[[140]](#footnote-140) NRG asserts that specific requirements should be addressed through a stakeholder process; however, it suggested requiring that EGSs offering SCB post security naming the EDC as beneficiary in the event the EGS fails to pay the EDC’s transmission and distribution charges. NRG proposes that the security be set at “two months of distribution charges, using the highest two months in the most recent twelve-month period, which amount is reviewed and adjusted quarterly.”

**4. Disposition**

 The POR programs are tied to UCB and the termination of electric service to nonpaying customers. Under current POR programs, EDCs purchase the EGSs’ receivables. The EGSs receive payment for their generation services from the EDCs. The EDCs are then responsible for collecting from customers for all charges billed, including the EGSs generation charges, and for terminating service to nonpaying customers. As a result of the POR programs, the EDCs bear the risk of bad debts. The EGSs’ risk from uncollectible accounts is mitigated because their charges are paid—although at a cost/discount—by the EDCs.

 The existing POR programs under UCB are voluntary. In its Petition, NRG claims that EGSs offering SCB would have to continue the POR programs by purchasing the EDCs receivables. However, just like it cannot now force EDCs to participate in POR programs, the Commission could not require EGSs offering SCB to purchase the accounts receivable of EDCs. POR programs under SCB would remain voluntary as NRG has not identified any legal authority under which the Commission could require EGSs to continue them.

 In addition, as noted by First Energy and the PA AFL-CIO, the Commission agrees that the existence of POR programs under SCB raises questions regarding termination of service that NRG has not adequately addressed in its Petition or Reply Comments. Despite NRG’s assertion that Chapter 14 allows an EDC to terminate service for a customer’s nonpayment to an EGS, we are not convinced that this interpretation is correct.

 As noted in Section A above, NRG does not adequately address the legal basis for an EDC to terminate a customer’s electric service when the EDC is not owed any money. Another issue discussed in Section A is that an EDC’s power to terminate service is based on its obligation as DSP to provide electric service to all customers in its territory. Since an EGS is not required to serve any customer, there is less justification for granting it the power to terminate service. If an EGS wants to terminate a customer’s service, it is effectively saying that it no longer wants to serve that customer. In that case, the EDC/DSP is obligated under 66 Pa. C.S. § 2807(e) to provide electric service to the customer. One option available to the EGS at that point is to drop the customer to default service and pursue any other available means to collect from the customer. While the Public Utility Code and regulations allow the Commission to designate a supplier as DSP for a given service territory or specific customer class, NRG has not proposed to take on that role in its Petition.[[141]](#footnote-141)

 NRG also failed to address questions regarding the voluntary nature of the POR programs. Since the programs are voluntary, the Commission could not require an EGS to purchase the accounts receivable of an EDC. If an EGS offered SCB but did not want to purchase the EDC’s receivables, SCB may not be practical.

 Under the POR programs as proposed by NRG, the EGS would bear the full risk of bad debts because it would purchase 100% of the EDC’s receivables (that is, with no discount). As such, to ensure that EDCs are paid, the Commission must establish a higher level of financial security for EGSs that offer SCB, a point which NRG acknowledged in its Reply Comments. Although NRG proposed a bonding level of two months of distribution charges, it failed to provide a basis to support this level of financial responsibility. As such, the Commission cannot determine whether that level is sufficient. Accordingly, NRG has failed to provide adequate evidence to support its Petition.

 The Commission finds that NRG’s proposal regarding POR programs is not in the public interest given that it leaves a number of significant questions unanswered. NRG has not met its burden of proof regarding its proposal for EGS POR programs.

**CONCLUSION**

 Upon review, we find that the record in this proceeding lacks sufficient detail to substantiate a definitive determination on both the policy prudence and legality of numerous pivotal issues. While the Commission has a long history of deliberating SCB, the question of its legality under Chapters 14 and 28 of the Public Utility Code has never been directly addressed. Neither NRG’s Petition nor the comments adequately address this fundamental issue regarding the legality of SCB under the Public Utility Code. Also, while issues such as termination procedures, purchase of receivables design, bill format, distinguishing between basic and non-basic charges, and customer assistance program design are contemplated in this Petition, the Petition is not fully developed to show compliance with the Code, our regulations, and Commission orders. As such, the Commission finds that NRG has not met its burden of proof in this proceeding and hereby denies NRG’s Petition.

 Although we are denying the Petition, we continue to be of the opinion previously expressed by the Commission as part of our Retail Electric Market Investigation 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.”[[142]](#footnote-142) In order to continue the consideration of SCB and other programs that can promote a competitive market and benefit customers, the Commission finds that it is necessary to seek further information, clarification, and comment regarding the implementation of SCB by conducting an *en banc* hearing before the Commission.

 Given the vital importance of electric service to Pennsylvania consumers, and considering the number of issues associated with the implementation of SCB not adequately addressed, NRG has not met its burden of proof as the moving party. The potential risks to consumers and the retail electric market in general are such that the Commission must deny NRG’s Petition; **THEREFORE,**

 **IT IS ORDERED:**

 1. That the Petition of NRG Energy, Inc. for Implementation of Electric Generation Supplier Consolidated Billing is hereby denied, consistent with this Order.

 2. That this docket be marked closed.

 3. That the Law Bureau and the Office of Competitive Market Oversight organize an *en banc* hearing, to take place on or before June 14, 2018, seeking comments on Supplier Consolidated Billing and other possible alternatives to the competitive market that would promote shopping and the inclusion of EGS value-added services.

 4. That the Law Bureau prepare a Secretarial Letter initiating an *en banc* proceeding consistent with this Order.

 5. That the Secretary’s Bureau create a new Docket Number for the *en banc* proceeding.

**BY THE COMMISSION**

Rosemary Chiavetta

Secretary

(SEAL)

ORDER ADOPTED: January 18, 2018

ORDER ENTERED: January 31, 2018

1. Petition of NRG Energy, Inc. for Implementation of Electric Generation Supplier Consolidated Billingat 2 (FN 1), Docket No. P-2016-2579249 (Petition filed December 8, 2016) (NRG Petition). [↑](#footnote-ref-1)
2. *Investigation of Pennsylvania’s Retail Electricity Market: End State of Default Service Final Order* at pgs. 11-12, Docket No. I-2011-2237952 (Order entered February 15, 2013)(*End State Final Order*). [↑](#footnote-ref-2)
3. *End State Final Order* at pgs. 12-15. [↑](#footnote-ref-3)
4. *See* PP&L, Inc. Tariff Electric Pa. P.U.C. No. 1s. [↑](#footnote-ref-4)
5. *End State Final Order* at pgs. 62-63. [↑](#footnote-ref-5)
6. *End State Final Order* at pgs. 63-64. [↑](#footnote-ref-6)
7. *End State Final Order* at pgs. 66-67. [↑](#footnote-ref-7)
8. *End State Final Order* at pg. 67. [↑](#footnote-ref-8)
9. *End State Final Order* at pgs. 67-68. [↑](#footnote-ref-9)
10. *End State Final Order* at pg. 68. [↑](#footnote-ref-10)
11. *Investigation of Pennsylvania’s Retail Electricity Market: Joint Electric Distribution Company – Electric Generation Supplier Bill Tentative Order*, Docket No. M-2014-2401345 (Order entered February 6, 2014) (*Joint Bill Tentative Order*). [↑](#footnote-ref-11)
12. *Investigation of Pennsylvania’s Retail Electricity Market: Joint Electric Distribution Company – Electric Generation Supplier Bill Final Order* at pgs. 3-20, Docket No. M-2014-2401345 (Order entered May 23, 2014) (*Joint Bill Final Order*). [↑](#footnote-ref-12)
13. *Joint Bill Final Order* at pgs. 20, 22-24, & 26-28. [↑](#footnote-ref-13)
14. NRG Petitionat ¶¶ 1-3. [↑](#footnote-ref-14)
15. NRG Petition at 8-9. [↑](#footnote-ref-15)
16. NRG Petitionat ¶¶ 4-7. [↑](#footnote-ref-16)
17. NRG Petitionat ¶ 10. [↑](#footnote-ref-17)
18. NRG Petitionat ¶ 11. [↑](#footnote-ref-18)
19. NRG Petitionat ¶¶ 12-15. [↑](#footnote-ref-19)
20. NRG Petitionat ¶¶ 16-17. [↑](#footnote-ref-20)
21. NRG Petition at ¶ 15 [↑](#footnote-ref-21)
22. NRG Petition at ¶¶ 26-28, 34, 54. [↑](#footnote-ref-22)
23. NRG Petitionat ¶¶ 29-30. [↑](#footnote-ref-23)
24. NRG Petition at ¶¶ 31-32. [↑](#footnote-ref-24)
25. NRG Petition at ¶ 33. [↑](#footnote-ref-25)
26. NRG Petition at ¶ 37a. [↑](#footnote-ref-26)
27. NRG Petition at ¶¶ 37b, c, & f. [↑](#footnote-ref-27)
28. NRG Petition at ¶ 37e. [↑](#footnote-ref-28)
29. NRG Petition at ¶ 37d. [↑](#footnote-ref-29)
30. NRG Petition at ¶ 38. [↑](#footnote-ref-30)
31. NRG Petition at ¶¶ 39-43. [↑](#footnote-ref-31)
32. NRG Petitionat ¶ 44. [↑](#footnote-ref-32)
33. NRG Petitionat ¶¶ 45-46. [↑](#footnote-ref-33)
34. NRG Petitionat ¶¶ 48-51. [↑](#footnote-ref-34)
35. NRG Petitionat ¶¶ 52-53. [↑](#footnote-ref-35)
36. NRG Petitionat ¶¶ 55-58. [↑](#footnote-ref-36)
37. NRG Petitionat ¶¶ 59-62. [↑](#footnote-ref-37)
38. NRG Petitionat ¶ 63. [↑](#footnote-ref-38)
39. NRG Petitionat ¶¶ 64-67. [↑](#footnote-ref-39)
40. NRG Petitionat ¶ 68. [↑](#footnote-ref-40)
41. NRG Petition at ¶¶ 15, 69-75. [↑](#footnote-ref-41)
42. Calpine Comments at 2-3. [↑](#footnote-ref-42)
43. NRG Petition at ¶¶ 16, 69; Reply Comments at 42-48. [↑](#footnote-ref-43)
44. CAUSE PA Answer at ¶¶ 15-16; OSBA Comments at 3-4; PA AFL-CIO Comments at 4-7; PECO at 9‑11; PPL Comments at 23-25; and TURN Comments at 4-11. [↑](#footnote-ref-44)
45. 66 Pa. C.S. Ch. 14. [↑](#footnote-ref-45)
46. 52 Pa. Code Ch. 56. [↑](#footnote-ref-46)
47. NRG Petition at ¶ 30. [↑](#footnote-ref-47)
48. NRG Petition at Appendix A, Question #2 and ¶ 30 (FN 50). [↑](#footnote-ref-48)
49. NRG Petition at ¶ 48 (FN 81). [↑](#footnote-ref-49)
50. NRG Petition at ¶ 32. [↑](#footnote-ref-50)
51. NRG Petition at ¶ 31. [↑](#footnote-ref-51)
52. NRG Petition at 2 and ¶ 29; CAUSE PA Answer at ¶ 29. [↑](#footnote-ref-52)
53. CAUSE PA Answer at ¶ 29. [↑](#footnote-ref-53)
54. Calpine Comments at 3-5. [↑](#footnote-ref-54)
55. Duquesne Comments at 17-18; FirstEnergy PA Comments at 6-8; Industrial Customer Alliances Comments at 3-4; OCA Comments at 6; PPL Comments at 12-13; TURN Comments at 5-6. [↑](#footnote-ref-55)
56. FirstEnergy PA Comments at 8; PECO Comments at 21. [↑](#footnote-ref-56)
57. CAUSE PA Answer at ¶ 31; Duquesne Comments at 10, 12; EAP Comments at 2, 8-9; PPL Comments at 5. [↑](#footnote-ref-57)
58. FirstEnergy PA Comments at 5-6; PA AFL-CIO Comments at 3-4. [↑](#footnote-ref-58)
59. OCA Comments at 8-9. [↑](#footnote-ref-59)
60. PPL Comments at 9-13. [↑](#footnote-ref-60)
61. NRG Reply Comments at 16-17, 82-84. [↑](#footnote-ref-61)
62. NRG Reply Comments at 17, 81-83. [↑](#footnote-ref-62)
63. NRG Reply Comments at 83-84. [↑](#footnote-ref-63)
64. NRG Reply Comments at 16-17, 84. [↑](#footnote-ref-64)
65. NRG Reply Comments at 85. [↑](#footnote-ref-65)
66. NRG Reply Comments at 84. [↑](#footnote-ref-66)
67. PPL Comments at 11. [↑](#footnote-ref-67)
68. OCA Comments at 17-18; PECO Comments at 21, 22. [↑](#footnote-ref-68)
69. 66 Pa. C.S. § 1403; 52 Pa. Code § 56.2. [↑](#footnote-ref-69)
70. 66 Pa. C.S. §§ 2802(16) and 2807(d). [↑](#footnote-ref-70)
71. 66 Pa. C.S. § 2809(e). [↑](#footnote-ref-71)
72. 66 Pa. C.S. § 2802(16). [↑](#footnote-ref-72)
73. 66 Pa. C.S. §§ 2803 and 2807(e)(3.1). [↑](#footnote-ref-73)
74. See 66 Pa. C.S. § 2803 (definition of default service provider). [↑](#footnote-ref-74)
75. See 52 Pa. Code § 54.183. [↑](#footnote-ref-75)
76. Many of the Commission’s prior discussions of SCB occurred before the General Assembly added provisions such as Chapter 14 to the Public Utility Code. [↑](#footnote-ref-76)
77. *Dauphin County Industrial Development Authority v. Pa. Public Utility Commission*, 123 A.3d 1124 (Pa. Cmwlth. 2015) Citation. [↑](#footnote-ref-77)
78. NRG Petition at ¶ 37(e). [↑](#footnote-ref-78)
79. CAUSE PA Answer at ¶ 37(e); Calpine Comments at 7; Duquesne Comments at 22-23; PECO Comments at 20; PPL Comments at 13-14. [↑](#footnote-ref-79)
80. NRG Reply Comments at 18. [↑](#footnote-ref-80)
81. 66 Pa. C.S. §§ 2802(3), (12), (13); 2804(2). [↑](#footnote-ref-81)
82. 66 Pa. C.S. §§ 2802(3), (5), (7), (12); 2804(2). [↑](#footnote-ref-82)
83. NRG Petition at 1-2; ¶¶ 48-53. [↑](#footnote-ref-83)
84. NRG Petition at 1-2; ¶¶ 15, 22, 44, 46, 48-53 51, 55-57, 62. [↑](#footnote-ref-84)
85. NRG Petition at ¶ 48, FN 81. [↑](#footnote-ref-85)
86. NRG Petition at ¶ 37(d), Appendix A # 5 & 8. [↑](#footnote-ref-86)
87. Direct Energy Comments at 2-3; RESA Comments at 6-7. [↑](#footnote-ref-87)
88. CAUSE PA Answer at ¶ 46. [↑](#footnote-ref-88)
89. OCA Comments at 17-18. [↑](#footnote-ref-89)
90. PECO Comments at 21-23. [↑](#footnote-ref-90)
91. OCA Comments at 16. [↑](#footnote-ref-91)
92. FirstEnergy Answer at ¶ 56. [↑](#footnote-ref-92)
93. FirstEnergy Answer at 4-5, 8-9, ¶ 50. [↑](#footnote-ref-93)
94. CAUSE PA Answer at ¶¶ 16-18, 26-27, 29, 33, 37(d); Duquesne Comments at 17-18, 22. [↑](#footnote-ref-94)
95. CAUSE PA Answer at ¶ 18; TURN Comments at 6-7. [↑](#footnote-ref-95)
96. TURN Comments at 7. [↑](#footnote-ref-96)
97. OCA Comments at 19, 24. [↑](#footnote-ref-97)
98. PECO Comments at 15-16, 24. [↑](#footnote-ref-98)
99. PPL Comments at 16-17. [↑](#footnote-ref-99)
100. NRG Reply Comments at 1-2, 53-57, 62, 64. [↑](#footnote-ref-100)
101. NRG Reply Comments at 8-9, 37-39. [↑](#footnote-ref-101)
102. NRG Reply Comments at 85. [↑](#footnote-ref-102)
103. NRG Reply Comments at 19, 73, 80-81. [↑](#footnote-ref-103)
104. NRG Reply Comments at 19. [↑](#footnote-ref-104)
105. NRG Reply Comments at 86. [↑](#footnote-ref-105)
106. *See Petition of PPL Electric Utilities Corporation for Approval of a Default Service Program and Procurement for the Period June 1, 2017 Through May 31, 2021*, Docket No. P-2016-2526627 (Order entered January 26, 2017). [↑](#footnote-ref-106)
107. *RESA v. Pa. Public Utility Commission*, 230 C.D. 2017. [↑](#footnote-ref-107)
108. NRG Petition at 2-3, ¶¶ 15, 22-23, 25, 44-53. [↑](#footnote-ref-108)
109. NRG Petition at ¶¶ 12-15, 25, 55. [↑](#footnote-ref-109)
110. NRG Petition at 2, ¶¶ 37(c), 57. [↑](#footnote-ref-110)
111. NRG Petition at 2, ¶ 33 (See FN 54 for list of potential standards and requirements.). [↑](#footnote-ref-111)
112. NRG Petition at ¶ 37(f). [↑](#footnote-ref-112)
113. NRG Petition at 3, ¶¶ 11, 35, 42, 54, 63-68. [↑](#footnote-ref-113)
114. Direct Energy Comments at 4-5; RESA Comments at 4-8; WGL Energy Comments at 3-4. [↑](#footnote-ref-114)
115. FirstEnergy Answer at 17, ¶ 20; PPL at 19; UGI Answer at ¶ 48. [↑](#footnote-ref-115)
116. PECO Comments at 30 [↑](#footnote-ref-116)
117. PPL Comments at 19. [↑](#footnote-ref-117)
118. RESA Reply Comments at 7. [↑](#footnote-ref-118)
119. CAUSE PA Answer at ¶ 37(c); Calpine Comments at 6; Industrial Customer Alliances Comments at 2‑3; OSBA Comments at 6; PECO Comments at 17-18; PPL Comments at 5, 17. [↑](#footnote-ref-119)
120. CAUSE PA Answer at ¶ 37(f); OCA Comments at 13; PECO Comments at 18-19. [↑](#footnote-ref-120)
121. CAUSE PA Answer at ¶¶ 15, 23, 35, 42, 67; Citizens & Wellsboro Comments at 2-6; Duquesne Comments at 18-20; FirstEnergy Answer at ¶¶ 64-65; Industrial Customer Alliances Comments at 5; OCA Comments at 5, 13-14, 17; PA AFL-CIO Comments at 5; PECO Comments at 14, 29, 33-34; PPL Comments at 19-21; TURN Comments at 4-5; UGI Comments at 4-5, Answer at ¶ 54. [↑](#footnote-ref-121)
122. CAUSE PA Answer at ¶ 35; Calpine Comments at 5-6; OCA Comments at 20. [↑](#footnote-ref-122)
123. OCA Comments at 14-15. [↑](#footnote-ref-123)
124. NRG Reply Comments at 50-53. [↑](#footnote-ref-124)
125. Calpine, the only EGS to raise any concerns about the ability of smaller EGSs to compete under SCB, did not oppose the Petition. [↑](#footnote-ref-125)
126. NRG Reply Comments at 87-88. [↑](#footnote-ref-126)
127. NRG Reply Comments at 73. [↑](#footnote-ref-127)
128. NRG Reply Comments at 78- 81. [↑](#footnote-ref-128)
129. 66 Pa. C.S. §§ 2802(3), (12), (13); 2804(2). [↑](#footnote-ref-129)
130. NRG Petition at ¶¶ 27, 28, 37(a), 54, Appendix A, Question #4. [↑](#footnote-ref-130)
131. CAUSE PA Answer at ¶ 15; OCA Comments at 3-5; OSBA Comments at 4; PECO Comments at 13. [↑](#footnote-ref-131)
132. FirstEnergy Answer at 9; PA AFL-CIO Comments at 3-4. [↑](#footnote-ref-132)
133. Duquesne Comments at 18-19. [↑](#footnote-ref-133)
134. PECO Comments at 30. [↑](#footnote-ref-134)
135. PPL Comments at 21-22. [↑](#footnote-ref-135)
136. OSBA Comments at 6. [↑](#footnote-ref-136)
137. NRG Reply Comments at 56-58. [↑](#footnote-ref-137)
138. NRG Reply Comments at 84. [↑](#footnote-ref-138)
139. NRG Petition at ¶ 33. [↑](#footnote-ref-139)
140. NRG Reply Comments at 14-15. [↑](#footnote-ref-140)
141. See 66 Pa. C.S. §§ 2802(16), 2803 (definition of default service provider), and 2807(e)(3.1); 52 Pa. Code § 54.183. [↑](#footnote-ref-141)
142. *End State Final Order* at pgs. 66-67. [↑](#footnote-ref-142)