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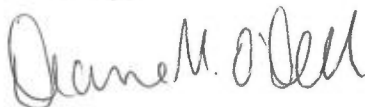
Rosemary Chiavetta, Secretary
PA Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Notice of *En Banc* Hearing on Implementation of Supplier Consolidated Billing
Docket No. M-2018-2645254

Dear Secretary Chiavetta:

Enclosed for electronic filing please find Reply Comments on behalf of the Retail Energy Supply Association ("RESA") In Response to Secretarial Letter Dated May 14, 2018 related to the above-referenced proceeding. Please do not hesitate to contact me if you have any questions or need anything further.

Sincerely,



Deanne M. O'Dell

DMO/lww
Enclosure

cc: Daniel Mumford, Director, Office of Competitive Market Oversight (via email only)
Kriss E. Brown, Deputy Director, Office of Competitive Market Oversight (via email only)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Notice of *En Banc* Hearing on :
Implementation of Supplier Consolidated : Docket No. M-2018-2645254
Billing :

**REPLY COMMENTS OF
THE RETAIL ENERGY SUPPLY ASSOCIATION
IN RESPONSE TO SECRETARIAL LETTER DATED MAY 14, 2018**

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Date: August 24, 2018

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I. INTRODUCTION

The Retail Energy Supply Association (“RESA”),¹ a trade association of diverse electric generation suppliers (“EGSs”), strongly supports implementation of supplier consolidated billing (“SCB”) as set forth most recently in its filed written comments and oral testimony from both *En Banc* hearings. In addition to RESA’s comments and testimony, many other interested stakeholders presented compelling points as to why implementation of SCB in Pennsylvania at this time would be an outstanding positive result for consumers and the Commonwealth. In addition, much of the dialogue and comments presented well-explained why the alleged obstacles raised against implementing SCB are either non-existent or surmountable through careful planning and strong leadership from the Commission. The purpose of these Reply Comments is to highlight a few key points that RESA urges the Commission to keep in mind as it deliberates on this process. These points focus on: (1) the Commission’s legal authority to move forward; (2) the broad support for SCB evidenced in the written and oral testimony; and, (3) the experience of other jurisdictions as instructive to assist Pennsylvania in moving forward.

The desire of EGSs to be able to directly bill the consumer of their products is not a novel or radical idea as customers are billed this way every single day by every other provider of goods and services. Given the current status of Pennsylvania’s retail market and all the important groundwork has been laid to better empower consumers to take advantage of all that competition can offer, now is the right time to implement SCB in Pennsylvania. Stakeholders, guided by the strong leadership this Commission can provide, are well-positioned to open this exciting

¹ The comments expressed in this filing represent the position of the Retail Energy Supply Association (RESA) as an organization but may not represent the views of any particular member of the Association. Founded in 1990, RESA is a broad and diverse group of twenty retail energy suppliers dedicated to promoting efficient, sustainable and customer-oriented competitive retail energy markets. RESA members operate throughout the United States delivering value-added electricity and natural gas service at retail to residential, commercial and industrial energy customers. More information on RESA can be found at www.resausa.org.

pathway for consumers to fully avail themselves of technological advances related to their energy consumption. No consumer will be “left behind” when SCB is implemented because robust competition drives private investors to constantly create new ways to satisfy the individual needs of each and every consumer. Likewise, no consumer will be “forced” to change their current status quo when SCB is implemented because SCB would not replace or supplant the current utility consolidated billing (“UCB”) model. Rather, SCB would be an additional option for consumers to choose. All consumers will benefit from implementation of SCB. EGSs will be able to forge stronger relationships with their customers and gain a deeper understanding of their customers’ specific desires and preferences. Armed with this information, EGSs will be able to develop and bring to market a greater variety of customer-focused products and services. The end result will be an undeniable win-win for the Commonwealth and its electricity consumers.

II. REPLY COMMENTS

A. Commission Has All Requisite Legal Authority To Move Forward With SCB

As reflected during some of the question and answer segments at both *En Banc* hearings, much interest was expressed about the Commission’s legal authority to implement SCB. This, however, is not surprising as the opponents of SCB heavily emphasized their view that the Commission lacks the appropriate legal authority to move forward to implement SCB. Tactically, getting the Commission to agree with this view would be a quick way to end this whole process. The problem with this tactic, though, is that there is no legal support for it. As well explained by Karen Moury, counsel for the EGS Coalition, during the July 12, 2018 *En*

Banc hearing, the Electricity Generation Customer Choice and Competition Act (“Choice Act”)² establishes ample authority for the Commission to implement SCB³:

- Section 2804(3) expressly states that the Commission may require the unbundling of services other than generation, transmission and distribution. That authority absolutely includes billing services performed by other entities including suppliers.
- The only functions that have been carved out by the Choice Act to continue as monopoly services are transmission and distribution.
- The Choice Act requires EDCs to provide EGSs nondiscriminatory access to the EDC’s transmission and distribution system on “rates, terms of access and conditions that are comparable to the utilities own use of its system.”⁴
- The Choice Act empowers the Commission to take steps to prevent anticompetitive or discriminatory conduct and to investigate “the impact on the proper functioning of a fully competitive retail electricity market. . . anticompetitive or discriminatory conduct affecting the retail distribution of electricity.”⁵
- The law further expressly authorizes the Commission to impose any requirements on suppliers necessary to protect consumers and to maintain the quality of the services that customers have previously received.

Moreover, the Commission may rely on implicit authority to implement SCB.⁶ Efforts to spin precedent from the appellate courts as somehow barring implementation of SCB are outright incorrect. On the contrary, this precedent clearly establishes the Commission’s authority over EGSs and does not preclude the ability of other entities to offer the same services or products offered by utilities.⁷ In fact, as noted by Chairwoman Brown, the Choice Act specifically

² 66 Pa. C.S. §§ 2801-2812.

³ N.T. at 198-200.

⁴ 66 Pa. C.S. § 2803; 66 Pa. C.S. § 2804(6).

⁵ 66 Pa. C.S. §§ 2811(a) and (b).

⁶ “The commission shall have general administrative power and authority to supervise and regulate all public utilities doing business within this Commonwealth.” 66 Pa. C.S. § 501(b).

⁷ *Delmarva Power & Light Co., v. Pa.P.U.C.*, 870 A.2d 901 (Pa. 2005).

contemplates that an entity other than the utility could serve as the default service provider.⁸

Taken together, all of this makes clear that the Choice Act was not meant to solidify the monopoly hold of the EDCs which is exactly the reality of what is happening by requiring EGSs to rely on the EDCs as the only avenue to send EGS customers the EGS charges. There is no logical reason to believe that enabling competitive suppliers to offer SCB is something so different from the original intent of the Choice Act that it cannot be legally implemented. On the contrary and as explained in an in-depth white paper prepared by Dr. Philip R. O'Connor, the transition to competition in the electric industry "was preceded by more than a decade of questioning, discussion and debate."⁹

The opponents of SCB have attempted to divert away from the clear legal authority the Commission has to implement SCB by pointing to the Responsible Utility Customer Protection sections of the Public Utility Code (referred to as "Chapter 14").¹⁰ The two main lines of argument related to Chapter 14 by the opponents are that (1) it somehow takes away the Commission's authority pursuant to the Choice Act; and/or, (2) it somehow creates insurmountable "customer protection" requirements for EGSs that would offer SCB. Neither argument has any merit. Nothing in Chapter 14 interferes with the Commission authority pursuant to the Choice Act or its implicit authority pursuant to the Public Utility Code. Likewise, there is no validity to the claims that EGSs wishing to provide SCB would be unable to comply with reasonable requirements the Commission deems necessary to ensure the furtherance of Chapter 14. On the contrary, EGSs operate in numerous jurisdictions and are

⁸ N.T. at 184.

⁹ RESA Comments at 5, citing Attachment A, Philip R. O'Connor, Restructuring Recharged: The Superior Performance of Competitive Electricity Markets 2008-2016, April 2017 at 9-10.

¹⁰ 66 Pa. C.S. §§ 1401-1418.

required – every single day – to ensure that they are following each jurisdiction’s specific rules and regulations.¹¹ There is no reason to believe that EGSs would somehow be unable to operate in the same way regarding Chapter 14 requirements.¹²

Ironically, the reality of SCB that none of the consumer advocates choose to acknowledge is that its implementation and availability as an option will result in enhanced consumer protection by increasing transparency for customers and lessening confusion and/or dissatisfaction with the electric shopping process. As explained more fully in RESA’s comments, SCB allows consumers to be certain of who their provider is, what prices they are being charged, whether they have been switched, and for what services they are being billed. Mistakes can be detected and addressed more quickly.¹³ The end result will be less consumer complaints and more customer satisfaction – which is fully in line with the Commission’s goal of taking appropriate measures to protect consumers.

In sum, arguments that the Commission lacks legal authority to implement SCB or to implement reasonable requirements that EGSs wishing to offer SCB must follow to further other Commission goals (including Chapter 14 requirements) are not sound. On the contrary, the Commission has all requisite legal authority to move forward with implementing SCB and there is no legal reason to justify denying consumers of the ability to receive bills directly from the EGS providing their service.

¹¹ See RESA Comments at 22-23.

¹² As explained more fully in its comments, EGSs offering SCB would assume the risk of bad debt lessening some of the socialized cost of bad debt but could do so only if they have the same right to terminate service to non-paying customers as EDCs are able to do through the UCB/POR model. RESA Comments at 20-22. The Commission already has rules in place EDCs must follow to terminate service, EGSs offering SCB would also fully expect to be subjected to the same requirements.

¹³ RESA Comments at 15-17.

B. Broad Support Among Diverse Service Providers For SCB

EGSs are private companies that operate in numerous jurisdictions and must rely on their own financial and human resources to support their participation in Commission proceedings – whether through written comments, involvement in litigation, or attendance at an *En Banc* hearing. Because they generally focus on dedicating time and resources to issues that have more immediate impacts to bottom lines, private companies must be selective about using financial and other resources to participate in longer term regulatory initiatives such as the one under consideration here. When viewed in this light, the number of private entities that participated in this proceeding to express their support through written comments and/or making oral presentations during the *En Banc* hearings is worthy of serious consideration.

Many of the EGSs that actively presented written and/or oral testimony are members of RESA. While RESA – as an organization – is fully supportive of SCB, the action of these individual member companies to separately participate in these proceedings and provide their individual company’s viewpoints demonstrates the deep support in the EGS community for SCB.

Some EGSs participating in these proceedings are not RESA members but – through their participation – have demonstrated their level of support for SCB. For example, Inspire Energy Holdings, Inc. describes itself as “a technology and energy company, with a singular consumer focus” and explains in detail how SCB would create “a vibrant, innovative, and dynamic marketplace that maximizes consumer welfare.”¹⁴ Shipley Choice, LLC d/b/a Shipley Energy, an EGS that has been billing its own customers since 1929 for various non-regulated products and services,¹⁵ submitted written and oral testimony explaining the desire of its customers to

¹⁴ Inspire Comments at 1-2.

¹⁵ N.T. at 53.

receive all their services on one bill¹⁶ and why dual billing is not a reasonable alternative to SCB.¹⁷ WGL Energy Services, Inc. provided both written and oral testimony explaining how “Pennsylvania consumers have been prevented from realizing the many valuable benefits of electric choice because SCB is not available” and describing how the lack of SCB inhibits its ability to offer to electricity customers in Pennsylvania a version of its extremely popular flat billed natural gas product.¹⁸

Though not yet licensed as an EGS in Pennsylvania, Drift Marketplace, Inc. (“Drift”) – a venture-backed technology company – submitted written testimony as well as the oral testimony of its co-founder and CEO, Greg Robinson. As explained by Mr. Robinson, Drift’s team includes people “from a vast array of background” including internet, cloud services, and competitive markets who have “spent a lot of time thinking about what customers expect in the age of Amazon and Netflix, which . . . is control, choice and transparency.”¹⁹ Mr. Robinson also shared Drift’s “lessons learned” from New York (where SCB does not exist) regarding the paramount importance to customers of: (1) having an “experience similar to other products and services they trust and buy;” (2) understanding pricing “in three seconds or less”; and, (3) not wanting to interface with multiple companies to buy what is perceived as a single service.²⁰ Based on its experience, Drift expressed its full support for the implementation of SCB.²¹

Support for SCB was also provided by non-EGSs. For example, the Industrial Energy Consumers of Pennsylvania (“IECPA”), which is comprised of a number of large industrial

¹⁶ N.T. at 50-51.

¹⁷ N.T. at 193-194.

¹⁸ N.T. at 54-56, 215-218

¹⁹ N.T. at 57.

²⁰ N.T. at 58.

²¹ Drift Comments at 1.

energy consumers, filed a letter stating that adding SCB as an additional billing option “could further promote customer convenience and customer benefits.”²² The Advanced Energy Management Alliance (“AEMA”) – a trade organization consisting of both providers of technological solutions to empower consumers to better manage their electricity bills and some of the largest electricity consumers in the country – explained in written and oral testimony how its members offer dozens of different types of services focused on allowing consumers to either reduce their energy consumption or to manage consumption in a manner that will reduce their electric bills but these products and services cannot be explained on the UCB.²³ According to AEMA, “the ability to offer these services and include customer charges on one conveniently packaged SCB is a game-changer for the retail market in Pennsylvania and will open the market up to increased competition amongst suppliers as well as related companies offering tangential products and services – all while increasing customer choice in Pennsylvania.”²⁴

The broad support for SCB from this diverse group of entities is a clear indication of the desirability of SCB from market participants. The fact that all of these entities elected to invest their private resources and time to share their views and experiences with the Commission should provide a level of confidence regarding their commitment to increase investment in the Pennsylvania market to leverage properly implemented SCB for the full advantage of Pennsylvania consumers.

C. Path Forward Well-Established With Proven Results

The desire of EGSs to directly bill the consumer of that product is not a novel or radical idea as customers are billed this way every single day by every other provider of goods and

²² IECPA Letter dated July 11, 2018

²³ N.T. at 59-62.

²⁴ AEMA Comments at 2.

services. The idea is not even one that is new for the historical monopoly energy industry as RESA members currently issue supplier consolidated bills to residential and/or commercial customers in Texas, Illinois, Georgia, and Alberta Canada. In Ohio, several competitive suppliers are participating in a SCB pilot in the service territory of AEP Ohio which will enable EGSs to issue SCB bills to a maximum number of 80,000 customers and is on schedule to go live next year.²⁵ In addition, the Maryland Public Service Commission²⁶ and Delaware Public Service Commission²⁷ are also in the process of considering the potential implementation of SCB.

As such, EGSs have a great deal of experience regarding SCB. In Texas, at least 6 million SCB bills (to include paper and electronic bills) are sent on a monthly basis. But, Texas is not the only market where SCB is in place. Based on a poll of RESA members and the responses of a random, subset of those members, the total aggregate SCB bills issued by these responding member companies includes approximately 45,000 SCB bills per month in Georgia and 11,700 SCB bills per month in Illinois.

RESA members have utilized the SCB bill to provide public service information such as hurricane preparedness inserts. RESA members have also included targeted messaging with the SCB bills they issue in other states. These messages have included energy savings tips to help educate consumers about how to save in every season, special offers and high value discounts throughout the year, and other tools, resources and offers. RESA members issuing SCB bills

²⁵ See PUCO Case No. 16-1852-EL-SSO.

²⁶ MD PSC Case No. 9461. Reply Briefs were filed on June 22, 2108. A decision from the Maryland Public Service Commission is pending.

²⁷ A Hearing Examiner's report was adopted in Docket No. 15-1693 recommending approval of a Stipulated Order that calls for a new docket to be opened to address whether SCB is permitted in and should be adopted in Delaware. The report is expected be considered during the Commission's August 21, 2018 administrative meeting.

have also taken proactive steps to assist customers with paying their bills. This includes informing customers on the SCB bill about options to donate to a specific charity and how they can make one-time or monthly contributions to assist others with paying their bills.²⁸

The experience of RESA and many other entities supporting SCB in these markets shows that implementation of SCB results in increased customer satisfaction with the competitive market and decreased consumer complaints.²⁹ In these markets, SCB also leads to an increase in the product offerings available. In the markets where SCB is currently available, RESA members are able to offer the following innovative and value-added products and services:³⁰

- Renewable Buyback Programs
- Cash Back Loyalty Rewards
- Prepay Products
- Demand-Response Programs
- Solar Programs
- Smart Thermostat Plans
- Retro Efficiency Programs
- Refinancing of Existing Agreements
- Time of Use Plans
 - Free Nights
 - Free Weekends
 - Power Hours
- Fixed, Float, and Flex Plans
- Budget Power and Tiered Products
- Home Warranty Offers

Beyond demonstrating the real-world positive benefits that can result from implementing SCB, the experience of these other states is instructive regarding operational issues for Pennsylvania. From a technological standpoint, as explained by RESA President Darrin Pfannenstiel, the necessary electronic data interface (“EDI”) and advanced meter infrastructure

²⁸ All of this data is based on the result of a poll of RESA members as well as publicly available data.

²⁹ RESA Comments at 15-17.

³⁰ All of this data is based on the result of a poll of RESA members as well as publicly available data.

("AMI") already exists in Pennsylvania to enable the necessary communications between the EDCs and EGSs regarding customer usage.³¹ While these existing processes will need to be tweaked and tested to ensure that they flow in the needed direction to enable the EGSs to issue a SCB, three other jurisdictions (with a fourth one to soon be in operation) have already done this work and proven that it is possible. Pennsylvania has the advantage of being able to draw upon these experiences and modify them to work within the Commonwealth's existing infrastructure. Also important to remember is that Pennsylvania already has (1) a well-developed working group process in place to establish the practical, operational and EDI standards necessary for implementing SCB; and, (2) dedicated staff with the technical experience and established mission of overseeing the successful development of Pennsylvania's retail market.³²

For all these reasons, Pennsylvania is ideally positioned to build upon its existing EDI infrastructure and to rely on the Commission's experienced staff to take advantage of the lessons learned from these other jurisdictions. This, in addition to the practical knowledge that EGSs operating in these other jurisdictions can bring to the table make now an ideal time to offer Pennsylvania consumers all the benefits that can be unleashed through implementation of SCB.

III. CONCLUSION

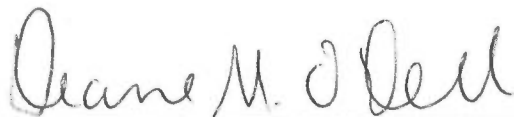
RESA members fully support the implementation of SCB in Pennsylvania and – based on all the testimony that has been provided in this proceeding – strongly urge the Commission to affirmatively direct its implementation. With this affirmative direction, the Commission and stakeholders can roll-up their sleeves to develop an appropriate implementation plan and establish the path forward for the benefit of Pennsylvania's consumers.

³¹ N.T. at 71-72.

³² RESA Comments at 23-24.

In closing, RESA members especially appreciate the two days of *En Banc* hearings scheduled by the Commission. Through this forum, interested stakeholders had the opportunity to converse directly with the Commissioners which fostered a deeper dialogue than is possible through written comments alone. In consideration of the comments of several of the Commissioners that – due to time constraints – they were unable to further probe into issues of importance to them, RESA would respectfully urge the Commission to consider scheduling additional *En Banc* hearings, if necessary to explore further any issue about which questions may remain. While RESA members firmly believe that the record in this proceeding fully supports a Commission order directing that SCB be implemented, denying implementation of SCB on the basis that additional information was needed would be an extremely unfortunate outcome particularly given the level of interest expressed by so many stakeholders in discussing this important initiative.

Respectfully submitted,



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Date: August 24, 2018

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