

Jennedy S. Johnson  
Assistant General Counsel  
2301 Market Street / S23-1  
Philadelphia, PA 19103  
jennedy.johnson@exeloncorp.com

Direct Dial: 215-841-4353

August 24, 2018

**VIA eFILING**

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17105-3265

**Re: Implementation of Supplier Consolidated Billing**  
**Docket No. M-2018-2645254**

Dear Secretary Chiavetta:

Enclosed for filing in the above-captioned proceeding are the **Reply Comments of PECO Energy Company**.

If you have any questions, please contact me directly at (215) 841-4353. Thank you.

Very truly yours,



Jennedy S. Johnson

Enclosures

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**IMPLEMENTATION OF SUPPLIER** : **Docket No. M-2018-2645254**  
**CONSOLIDATED BILLING** :

**REPLY COMMENTS OF PECO ENERGY COMPANY**

**I. INTRODUCTION AND OVERVIEW**

On May 4, 2018, PECO Energy Company (“PECO” or the “Company”) submitted its Comments in accordance with the Pennsylvania Public Utility Commission’s (the “Commission’s”) March 27, 2018 Notice of *En Banc* Hearing on Implementation of Supplier Consolidated Billing (“SCB”). PECO’s Comments addressed the SCB topics identified by the Commission and also identified a number of fundamental issues that would need to be addressed prior to any implementation of SCB. On July 12, 2018, Lauren Feldhake, PECO’s Vice President of Customer Operations, provided oral testimony highlighting several key customer and operational issues concerning SCB.

The comments filed by eighteen other stakeholders and statements made in the June and July *En Banc* hearings provide a wide variety of perspectives on SCB, including the consistency of SCB with the Public Utility Code (the “Code”), the risk of harm to customers under SCB, retail market impacts of SCB, and SCB implementation costs. Setting aside issues of whether SCB is legal under the Code, all commenters appear to acknowledge that SCB implementation would be complex and would involve a significant expansion of responsibilities for those electric generation suppliers (“EGSs”) that choose to implement SCB.

PECO’s Reply Comments address three key issues presented in the comments and testimony of other stakeholders, specifically (1) whether SCB is permitted under the Code; (2) the appropriate allocation of SCB implementation costs and the potential for SCB to generate

cost savings; and (3) preserving low income customer protections under SCB. The Reply Comments also reiterate the unique challenges that SCB presents for PECO as a gas and electric utility with over 500,000 dual-service customers.

Although these Reply Comments address particular risks to low income customers associated with SCB, the Company urges the Commission to consider the general risk of customer confusion associated with trying to decide whether to call the customer's EDC or its SCB EGS to address different customer issues (e.g., billing questions, quality of service, and safety).

## II. REPLY COMMENTS

### A. SCB Is Inconsistent With The Provisions Of Both Chapters 28 And 14 Of The Public Utility Code

Under SCB, an EGS would bill customers for both electric distribution company ("EDC") distribution charges and the EGS's generation and transmission charges, and customers would not receive a bill from their EDC. A range of commenters, including PECO, stated that such a billing arrangement is inconsistent with the provisions of Chapters 28 and 14 of the Code and therefore cannot be implemented absent a change in Pennsylvania law.<sup>1</sup> As discussed below, the arguments advanced by the EGS Coalition for SCB (the "EGS Coalition") and others that the Commission may authorize SCB under current law fail in light of the clear and non-delegable duties assigned to EDCs in the Code.

---

<sup>1</sup> See, e.g., PECO Comments, pp. 2-5; Office of Consumer Advocate ("OCA") Comments, pp. 2-9; Joint Comments of the Coalition for Affordable Utility Services and Energy Efficiency, Tenant Union Representative Network, and Action Alliance of Senior Citizens of Greater Philadelphia (collectively, the "Low Income Advocates"), pp. 6-20; Energy Assn. of Pennsylvania ("EAP") Comments, pp. 9-12.

As the Commission may be aware, PECO's Maryland affiliates (Baltimore Gas and Electric Company, Potomac Electric Power Company and Delmarva Power and Light Company) have not opposed SCB in Maryland due to differences in Maryland's restructuring law and a determination by the Maryland Public Service Commission ("PSC") that a statutory requirement to adopt orders or regulations implementing "competitive billing services" included SCB. Nevertheless, PECO's Maryland affiliates have urged the PSC to consider and resolve a number of customer and operational issues consistent with PECO's written comments and testimony at the *En Banc* hearing before any implementation of SCB in Maryland.

Section 2807(c) of the Code, 66 Pa.C.S. § 2807(c), describes the two billing methods that are permitted under the Code – utility consolidated billing (“UCB”) and dual billing.<sup>2</sup> An EDC is required to offer UCB unless a customer opts to receive a separate bill from his or her EGS for generation and transmission charges.<sup>3</sup> The EGS Coalition and others argue that additional billing options (i.e., SCB) are permissible because the provision says an EDC “*may*” be responsible for billing customers for all electric services.<sup>4</sup> This argument, however, ignores the clear language in Section 2807(c)(2) that requires EGSs to provide EDCs with billing data sufficient to enable the EDCs to bill customers.<sup>5</sup> The Code does not include a parallel mandate for EDCs to furnish billing data to EGSs to enable SCB.<sup>6</sup>

Section 2807(d) of the Code, 66 Pa.C.S. § 2807(d), also requires EDCs, regardless of bill type, to continue to provide essential customer service functions, including complaint resolution and collections.<sup>7</sup> The EGS Coalition contends that an EDC’s customer service obligations do not preclude EGSs from performing certain customer service functions and emphasize that EGSs already handle customer issues concerning their generation services.<sup>8</sup> But this contention misconstrues the nature of SCB, which would result in the *transfer* of a number of customer

---

<sup>2</sup> See 66 Pa.C.S. § 2807(c): “**Customer billing**--Subject to the right of an end-use customer to choose to receive separate bills from its electric generation supplier, the electric distribution company may be responsible for billing customers for all electric services, consistent with the regulations of the commission, regardless of the identity of the provider of those services. . . .”

<sup>3</sup> See PPL Electric Utilities Corporation (“PPL”) Comments, p. 4; OCA Comments, pp. 3-4.

<sup>4</sup> EGS Coalition Comments, pp. 25-26; Shipley Choice, LLC, d/b/a Shipley Energy (“Shipley”) Comments, p. 4; National Energy Marketers Association (“NEMA”) Comments, p. 3.

<sup>5</sup> See 66 Pa.C.S. § 2807(c)(2): “If services are provided by an entity other than the electric distribution company, the entity that provides those services shall furnish to the electric distribution company billing data sufficient to enable the electric distribution company to bill customers.”

<sup>6</sup> EAP Comments, pp. 9-10; Low Income Advocates Comments, p. 8.

<sup>7</sup> See 66 Pa.C.S. § 2807(d): “**Consumer protections and customer service**-- The electric distribution company shall continue to provide customer service functions consistent with the regulations of the commission, including meter reading, complaint resolution and collections. Customer services shall, at a minimum, be maintained at the same level of quality under retail competition.”

<sup>8</sup> EGS Coalition Comments, pp. 25-26.

service obligations that are expressly assigned to EDCs in the Code from the EDC to the EGS. As discussed in detail in PECO's Comments, under Pennsylvania law the clear statutory obligations of EDCs cannot be transferred to an EGS.<sup>9</sup>

Chapter 14 of the Code, 66 Pa.C.S. §§ 1401 et seq., also unambiguously assigns customer-protection obligations to public utilities, including standards for termination and reconnection of service, provision of information regarding universal service programs, cash deposits for initiation of service, and payment arrangements to avoid termination of service. The statute does not authorize an EGS to perform all or a portion of these critical customer service functions. The EGS Coalition argues that these protections do not "interfere" with the Commission's authority to implement SCB.<sup>10</sup> They further contend that EGSs can agree (or be required) to comply with Chapter 14, citing to the Commission's authority under Section 2809(e) of the Code, 66 Pa.C.S. § 2809(e), to impose requirements on EGSs to ensure compliance with standards and billing practices in Chapter 56 of the Commission's regulations.<sup>11</sup>

These arguments fail for several reasons. First, the core customer protections in Chapter 14 cannot be separated from the billing function because the protections are directly linked or intrinsically related to the actual billing of customers.<sup>12</sup> Second, while the Commission does have some authority to impose requirements on EGSs regarding quality of service under Section 2809(e), authority concerning the billing relationship with customers and core customer-care

---

<sup>9</sup> PECO Comments, pp. 4-5 (citing *Dauphin Co. Indus. Dev. Auth. v. Pa. Pub. Util. Comm'n*, 123 A.3d 1124 (Pa. Commw. Ct. 2015)).

<sup>10</sup> EGS Coalition Comments, pp. 28-30.

<sup>11</sup> EGS Coalition Comments, pp. 28-30.

<sup>12</sup> OCA Comments, p. 4.

functions has not been established.<sup>13</sup> EDC-specific obligations simply cannot be transferred to EGSs under existing law.

The EGS Coalition and others also cite to the Commission's general authority under Section 501<sup>14</sup> and generic unbundling language under Section 2804(3)<sup>15</sup> as support for their position that SCB is consistent with existing law.<sup>16</sup> These general provisions, however, do not authorize the Commission to take action that is contrary to the express provisions of the Code discussed above, which include Chapter 14 provisions enacted (and reauthorized) after Section 2804(3) became law.

Finally, the EGS Coalition and others point to language in older Commission Orders about billing, including the approval of restructuring settlements, as evidence that the Commission has already found SCB to be consistent with the Code.<sup>17</sup> Those Orders, however, do not resolve (or affirm) the legality of SCB. Since the restructuring settlements, Chapter 14 was enacted and reauthorized, addressing EDC customer service expectations in more detail.<sup>18</sup> In addition, recent Commission Orders, such as in the NRG proceeding,<sup>19</sup> and the very existence

---

<sup>13</sup> OCA Comments, pp. 5-6 (citing *Delmarva Power & Light Co. v. Pa. Pub. Util. Comm'n*, 870 A.2d 901 (Pa. 2005), and *Commonwealth of Pennsylvania, et al. v. IDT Energy, Inc.*, Docket No. C-2014-2427657 (Order entered Dec. 18, 2014)).

<sup>14</sup> 66 Pa.C.S. § 501(b): “**Administrative authority and regulations.**--The commission shall have general administrative power and authority to supervise and regulate all public utilities doing business within this Commonwealth. The commission may make such regulations, not inconsistent with law, as may be necessary or proper in the exercise of its powers or for the performance of its duties.”

<sup>15</sup> 66 Pa.C.S. § 2804(3): “The commission shall require the unbundling of electric utility services, tariffs and customer bills to separate the charges for generation, transmission and distribution. The commission may require the unbundling of other services.”

<sup>16</sup> EGS Coalition Comments, pp. 22-25; WGL Energy Services, Inc. (“WGL”) Comments, p. 2.

<sup>17</sup> EGS Coalition Comments, pp. 22-27; WGL Comments, p. 2.

<sup>18</sup> OCA Comments, p. 7.

<sup>19</sup> *Petition of NRG Energy, Inc. for Implementation of Electric Generation Supplier Consolidated Billing*, Docket No. P-2016-2579249 (Order entered Jan. 31, 2018).

of this SCB *En Banc* proceeding indicate that the Commission has not concluded that authorization of SCB is within its authority.<sup>20</sup>

**B. SCB Implementation Costs Should Be Borne Entirely By All EGSs**

1. The Nature Of SCB Implementation Costs

Several commenters expressed concerns about the type and magnitude of the costs of SCB implementation. For example, many stated that a portion of SCB costs would be for investments in duplicative billing and call center infrastructure<sup>21</sup> and that the Commission would likely incur additional oversight costs if SCB were implemented.<sup>22</sup> EAP further noted that SCB implementation costs would be in addition to millions already spent on other retail market initiatives.<sup>23</sup> Others questioned whether investment in SCB would benefit customers by lowering electricity costs, which was the objective of the Electricity Generation Customer Choice and Competition Act.<sup>24</sup> Several concluded that SCB implementation costs would far exceed any potential benefits.<sup>25</sup>

The EGS Coalition contended that EDCs would experience cost savings under SCB in the form of fewer bills, fewer customer complaints, and reduced uncollectible amounts.<sup>26</sup> The EGS Coalition also questioned PECO's SCB implementation cost estimate of \$4.6 million,

---

<sup>20</sup> See Low Income Advocates Comments, p. 5; OCA Comments, pp. 4-8.

<sup>21</sup> Low Income Advocates Comments, p. 38; Duquesne Light Company ("DLC") Comments, p. 20; EAP Comments, pp. 13-14; PPL Comments, p. 10.

<sup>22</sup> Calpine Energy Solutions, LLC ("Calpine") Comments, pp. 3-4; OCA Comments, p. 22; PPL Comments, p. 11; Low Income Advocates Comments, p. 33.

<sup>23</sup> EAP Comments, p. 13.

<sup>24</sup> See, e.g., OCA Comments, Attachment A, p. iii.

<sup>25</sup> Low Income Advocates Comments, p. 37; DLC Comments, p. 21.

<sup>26</sup> EGS Coalition Comments, p. 61.

noting that PECO previously had SCB functionality and that there are SCB provisions in PECO's tariff.<sup>27</sup>

PECO agrees with other commenters that SCB implementation costs would not be offset by any potential EDC savings as PECO and other EDCs would have to maintain their full customer-support infrastructures (e.g., call center staffing, billing systems, complaint resolution personnel) for non-SCB-participating EGSs. Incremental savings are also unlikely, since that infrastructure would need to remain in place for any EGSs that exit the market or elect to discontinue SCB or if a shopping customer returns to default service. PECO also questions purported savings in uncollectible expenses when EGSs are proposing that certain low income customers, who may have a relatively higher risk of bill nonpayment than other residential customers, be excluded, at least initially, from SCB.

The EGS Coalition's critique of PECO's cost estimate based on the legacy SCB language in PECO's Supplier tariff is also misplaced, as that language does not reflect PECO's current billing capabilities. As required by PECO's Commission-approved restructuring settlement, PECO built SCB into its then-existing billing system and included SCB capability in its Supplier Tariff. But after investing in SCB functionality and making SCB available to EGSs, not one EGS chose to use the functionality. Seven years later, when it came time to update and replace PECO's billing system, PECO did not spend additional capital to replicate the SCB function since it had never been used by EGSs. Furthermore, as acknowledged by Ms. Moury in her *En Banc* testimony on behalf of the EGS Coalition, PECO's existing SCB tariff provisions would require further development if the Commission decides to move forward with SCB implementation.

---

<sup>27</sup> EGS Coalition Comments, p. 60.



## 2. The Allocation Of SCB Costs

Many commenters agreed with PECO that SCB implementation costs, including incremental EDC costs, should be borne by EGSs.<sup>28</sup> The EGS Coalition and others argued that incremental EDC costs should be recovered from electric distribution customers.<sup>29</sup> The Low Income Advocates concluded that all SCB implementation costs will eventually be passed along to customers, regardless of how they are initially allocated.<sup>30</sup>

PECO continues to believe that SCB implementation costs should be borne by *all* EGSs because all EGSs would have the option to use SCB. As noted above, the Company agrees with other commenters that SCB implementation costs would not be offset by potential savings.

### **C. If SCB Is Implemented, Low Income Customers Should Not Be Excluded And Customer Protections Must Be Maintained**

#### 1. The Exclusion Of Low Income Customers From SCB Is Not Appropriate

Several commenters propose to completely, or at least initially, exclude any customers who are enrolled in a customer assistance program (“CAP”) or are receiving a Low Income Home Energy Assistance Program (“LIHEAP”) grant from SCB.<sup>31</sup> Some commenters cite to the complexity of low income programming as a basis for exclusion, while others focus on an EDC’s statutory obligations regarding low income customers and programs and the fact that such programs must be funded by nonbypassable cost-recovery mechanisms. The EGS Coalition further recommends that if a customer decides to participate in CAP or LIHEAP while taking

---

<sup>28</sup> See, e.g., OCA Comments, p. 2; Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company (the “FirstEnergy Companies”) Comments, p. 17; see also Calpine Comments (all costs should be borne by EGSs electing to use SCB).

<sup>29</sup> EGS Coalition Comments, pp. 61-62; see also NEMA Comments, pp. 10-11.

<sup>30</sup> Low Income Advocates Comments, p. 36.

<sup>31</sup> EGS Coalition Comments, p. 79; OCA Comments, Attachment A, p. viii; Retail Energy Supply Association (“RESA”) Comments, p. 18; WGL Comments, pp. 9-10.

service from an EGS that has implemented SCB, that customer should be transitioned back to default service without any termination fee.<sup>32</sup>

PECO does not believe that excluding certain low income customers would be appropriate or would ensure that low income customer protections would be maintained if SCB is implemented. An EGS should not be able to “cherry-pick” customers based on credit rating, payment history, usage, or similar characteristics. Service to all customers in a class is consistent with UCB under PECO’s Electric Generation Supplier Tariff, which provides that any EGS using UCB for residential customers must do so for all of the EGS’s residential customers. In addition, the exclusion would not prevent low income customers from utilizing SCB, because not all low income customers are enrolled in CAP or LIHEAP. As noted by the Low Income Advocates, households regularly move in and out of eligibility for CAPs based on a variety of personal circumstances such as unemployment, unexpected medical expenses, or death or illness of a wage earner.<sup>33</sup> There are also low income customers who choose not to enroll in CAPs, but would still be entitled to low income protections under the Code, such as the prohibition on winter terminations. Even if CAP and LIHEAP customers were excluded from SCB, an EGS would have to be prepared to educate customers about potentially applicable EDC universal services programs, make appropriate referrals, and understand the low income customer protections under the Code and the Commission’s regulations.

2. The Commission Must Address How Low Income Customer Protections Will Be Maintained Under SCB

Many commenters expressed concern that low income customer programming and protections would not be preserved under SCB. Some questioned whether universal service obligations and low income customer protections could be enforced against EGSs where only

---

<sup>32</sup> EGS Coalition Comments, p. 79.

<sup>33</sup> Low Income Advocates Comments, p. 32.

EDCs have the statutory obligation to implement universal service programming<sup>34</sup> and adhere to low income customer protections, such as the winter-termination prohibition.<sup>35</sup> Others noted that SCB implementation challenges related to the overall complexity and structure of universal service programs.<sup>36</sup> The FirstEnergy Companies, for example, compiled an illustrative list of thirteen significant topics that would need to be addressed regarding universal service programs, including outreach, cost recovery, preprogram arrearages, complaint handling, and the continuity and administration of ancillary universal service programs.<sup>37</sup> Other commenters emphasized that each EDC's CAP is unique, with different benefit calculations and terms and conditions of enrollment, and that EGSs are not permitted to directly receive grants under LIHEAP.<sup>38</sup>

PECO agrees that there are significant issues concerning how SCB would affect low income customers that would need to be resolved prior to any implementation of SCB, and the Commission must clearly address the obligations of both EDCs and EGSs with regard to both low income customer programs and protections under any SCB implementation scenario. As described in detail in PECO's Comments, the Commission will need to consider and resolve EGS responsibilities for (1) determining eligibility for such low income programs as CAP and LIHEAP; (2) calculating and applying low income program benefits or otherwise implementing low income programming; and (3) overall handling of payment arrangements, collection arrangements and preexisting customer arrears.

---

<sup>34</sup> See, e.g., Low Income Advocates Comments, pp. 32-35; OCA Comments, pp. 2-9, 16-19; FirstEnergy Companies Comments, p. 25.

<sup>35</sup> Low Income Advocates Comments, p. 13.

<sup>36</sup> See, e.g., PPL Comments, pp. 16-17.

<sup>37</sup> FirstEnergy Companies Comments, p. 24.

<sup>38</sup> Low Income Advocates Comments, pp. 24-29; OCA Comments, Attachment A, pp. ix, xii; FirstEnergy Companies Comments, pp. 22-23. PECO also notes that, in order to become an authorized vendor for LIHEAP grants, an EGS would have to comply with additional requirements established by the Pennsylvania Department of Human Services.

As noted above, under any SCB scenario, including one where CAP and LIHEAP customers are excluded, it would be essential that customers receive appropriate referrals to universal service programs as well as the protections they are entitled to under the Code. This will require that EGSs be conversant in the details of each EDC-specific program that may be available to their customers and that appropriate channels for sharing information between the EGSs and EDC be in place. As customers move in and out of eligibility for low income programs, both the EDC and EGS must have access to the most current income and program-enrollment information. The EGS Coalition appears to acknowledge these minimum requirements when recommending that “EGSs in the SCB role be required to answer customer questions about the availability of low income programs, refer customers to the EDCs when they are payment-troubled or are seeking assistance that may be obtained through the EDCs and to educate customers about the options and programs that are available.”<sup>39</sup>

**D. The Commission Should Consider How SCB Would Be Implemented For Dual-Service Customers**

PECO has over 500,000 customers that are “dual-service,” meaning that they receive both gas and electric service from PECO. Dual-service customers raise significant and unique implementation and cost issues if SCB were implemented. PECO’s dual-service customers who currently receive a single bill for all gas and electric charges would receive two bills if their EGSs were to participate in SCB (an EGS bill for electric, and a PECO bill for gas), and PECO would need to create additional bill-processing options for those customers. As a general matter, PECO believes that SCB would create a greater risk of confusion for these customers because both the EGSs and PECO call centers would be required to address billing issues (EGSs for

---

<sup>39</sup> EGS Coalition Comments, p. 80; *see also* OCA Comments, Attachment A, p. ix.

electric, PECO for gas). This confusion could create delays in the resolution of customer-billing issues and lead to lower customer satisfaction overall.

SCB would also create particular challenges for dual-service customers because of uncertainty as to how payments should be applied and how low income programs should be implemented. For example, past-due gas and electric service charges have higher payment priority than current gas and electric charges (i.e., a bill payment from a dual-service customer will be first applied to any past-due gas and electric charges before any current charges). If PECO's billing responsibility for current electric charges were transferred to an EGS, it is unclear how or whether future payments made to PECO would apply to past-due electric service charges.

PECO also directly receives LIHEAP grants on behalf of dual-service customers and presently applies those grants first to past-due payments (gas and electric) and next to the current bills (gas and electric), and then retains any remainder as credits on the customer accounts. Similar to payment priority, the receipt and application of LIHEAP grants would have to be modified to clarify if (or how) LIHEAP grants received by PECO could be applied to charges for electric service. Finally, depending upon how universal service obligations may be allocated under SCB, PECO would need clarity on the coordination of separately administered gas and electric program benefits for a dual-service customer.

### III. CONCLUSION

PECO appreciates the opportunity to provide these Reply Comments to support the Commission's inquiry into Supplier Consolidated Billing.

Respectfully submitted,



Romulo L. Diaz, Jr. (Pa. No. 88795)

Jack R. Garfinkle (Pa. No. 81892)

Jennedy S. Johnson (Pa. No. 203098)

PECO Energy Company

2301 Market Street

Philadelphia, PA 19103

Phone: 215.841.4353

Fax: 215.568.3389

[romulo.diaz@exeloncorp.com](mailto:romulo.diaz@exeloncorp.com)

[jack.garfinkle@exeloncorp.com](mailto:jack.garfinkle@exeloncorp.com)

[jennedy.johnson@exeloncorp.com](mailto:jennedy.johnson@exeloncorp.com)

Dated: August 24, 2018