

Responses of EGS SCB Coalition to Legal Questions

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| 1. | Does the Public Utility Code authorize implementation of SCB? | Yes. |
| <ul style="list-style-type: none"> • Commission is expressly authorized to require the unbundling of services other than generation, transmission and distribution.¹ • Transmission and distribution services are the only functions designated to continue being provided as monopoly services.² • Commission is charged with fostering the development of a competitive market for generation supply services.³ | | |
| 2. | Does the Public Utility Code prohibit implementation of SCB? | No. |
| <ul style="list-style-type: none"> • Not a single provision of the Code precludes the implementation of SCB.⁴ | | |
| 3. | Is it necessary for the Public Utility Code to contain the precise words: “The Commission may mandate implementation of SCB?” | No. |
| <ul style="list-style-type: none"> • Commission may act on the basis of express statutory authority or implied authority.⁵ | | |
| 4. | Has the Commission found that it has the authority to implement SCB? | Yes. |
| <ul style="list-style-type: none"> • Commission approved restructuring settlements providing for SCB.⁶ • Commission recognized its authority to implement SCB in restructuring orders.⁷ • Commission approved supplier tariff provisions enabling SCB.⁸ • Commission approved EDI transactions that are necessary to implement SCB.⁹ • During the electric RMI, the Commission found that the choice of SCB, UCB and dual billing fully complies with the law giving customers the right to choose their billing option.¹⁰ | | |
| 5. | May the Commission impose consumer protection requirements on EGSs? | Yes. |
| <ul style="list-style-type: none"> • Commission is obligated to impose requirements on EGSs to maintain the quality of services previously provided and to ensure compliance with Chapter 56 billing practices.¹¹ • Commission is authorized to require compliance by suppliers with “requirements concerning service as the commission deems necessary for the protection of the public.”¹² • Suppliers have agreed to subject themselves to the Commission's jurisdiction as necessary. | | |
| 6. | Does the <i>Delmarva</i> decision prohibit the Commission from imposing consumer protection requirements on suppliers? | No. |
| <ul style="list-style-type: none"> • The Court in <i>Delmarva</i> found that the Commission may treat suppliers like public utilities for some purposes but not for others. • According to that decision, the Commission may not treat suppliers like public utilities for assessment purposes. • However, the Court explicitly recognized that the Commission may treat suppliers like public utilities (i.e., impose consumer protection requirements) when they are providing billing services.¹³ | | |
| 7. | Does Section 2807(c) limit a customer’s choices to only UCB and dual billing? | No. |
| <ul style="list-style-type: none"> • The focus of this section is on the customer’s right to have access to a consolidated billing option and on the customer’s right to choose from available options.¹⁴ • It imposes obligations on EDCs to provide consolidated billing as an option but does not limit the ability of the Commission to give customers additional billing options. • Commission has previously found that nothing in this section gives EDCs the exclusive ability to offer consolidated billing services.¹⁵ | | |

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| 8. | Does Section 2807(d) restrict the Commission from allowing suppliers to perform customer service functions? | No. |
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- This section obligates utilities to continue providing customer service functions, consistent with the Commission’s regulations, including meter reading, complaint resolution and collections.¹⁶
- Commission has previously found that this section does not give EDCs the exclusive ability to perform customer service functions.¹⁷
- In fact, suppliers already perform customer service functions.

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| 9. | Does the DCIDA decision prevent the Commission from allowing both suppliers and utilities to perform consolidated billing services? | No. |
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- DCIDA involved PPL's refusal to offer a TOU rate to customer-generators, despite being required by law to do so. The Court held that PPL could not shirk this statutory duty and rely exclusively on suppliers to offer the option.¹⁸
- Under SCB, both utilities and suppliers would perform consolidated billing functions, subject to the choice of the customer. As the EDCs would not be shirking a statutory duty, DCIDA is inapplicable.
- EDCs having certain statutory duties does not preclude other entities from offering the same services.

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| 10. | Is Chapter 14 a barrier to implementation of SCB? | No. |
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- Chapter 14 is irrelevant to the implementation of SCB.
- It was enacted to give utilities tools to terminate customers for non-payment and limited the Commission’s authority to order payment arrangements.
- Overall purpose of Chapter 14 is to reduce uncollectible expenses,¹⁹ which is consistent with SCB, while Chapter 28 enacts electric choice and competition.²⁰ They are separate subjects in a scheme covering the same subject matter (generally, public utility regulation) and should, whenever possible, be interpreted as one harmonious component of the entire statutory structure.²¹

¹ 66 Pa.C.S. § 2804(3).

² 66 Pa.C.S. §§ 2802(16) and 2804(6).

³ 66 Pa.C.S. §§ 2802(3), (7), (8), (12), (13), (18); 2804(2), (14).

⁴ See, e.g., *Application of Pennsylvania Power & Light Company for Approval of Restructuring Plan*, Docket No. R-00973954 (Order entered June 15, 1998), 1998 Pa. PUC LEXIS 131, *174 (“there is nothing in the Act that would prohibit the supplier single bill options”).

⁵ 66 Pa.C.S. § 501; See *City of Phila. v. Phila. Elec. Co.*, 473 A.2d 997, 999-1000 (Pa. 1984).

⁶ See, e.g., *Application of PECO Energy Company for Approval of its Restructuring Plan*, Docket No. R-00973953 (Order entered May 14, 1998).

⁷ See, e.g., *Application of Duquesne Light Co. for Approval of its Restructuring Plan*, Docket No. R-00974104 (Order entered on May 21, 1998), at 256.

⁸ See, e.g., PECO Pa. P.U.C. No. 1S, Page Nos. 97-101; PPL information:

<https://www.pplelectric.com/-/media/PPLElectric/Shared-Content/master-pages/gen-supplier-coord-tariff/competitive-billing-rider-availability.pdf>

⁹ See, e.g., *Standards for Electronic Data Transfer and Exchange Between Electric Distribution Companies and Electric Generation Suppliers*, Docket No. M-00960890, F.0015 (Order entered April 13, 2000).

¹⁰ *Investigation of PA’s Retail Electricity Market*, Docket No. I-2011-2237952 (Order entered November 8, 2012), at 28..

¹¹ 66 Pa.C.S. § 2809(e).

¹² 66 Pa.C.S. § 2802(14).

¹³ *Delmarva Power & Light Co. v. Pa. P.U.C.*, 870 A.2d 901 (Pa. 2005).

¹⁴ 66 Pa.C.S. § 2807(c).

¹⁵ *Final Order Re; Guidelines for Maintaining Customer Services at the Same Level of Quality*, Docket No. M-00960890, F. 11 (Order entered July 11, 1992), 1997 Pa. PUC LEXIS 119 at *23 (“Customer Services Order”).

¹⁶ 66 Pa.C.S. § 2807(d).

¹⁷ *Customer Services Order* at *23.

¹⁸ *Dauphin County Industrial Dev. Auth. v. Pa. P.U.C.*, 123 A.3d 1124 (Pa. Cmwlth. 2015).

¹⁹ 66 Pa.C.S. § 1402(3).

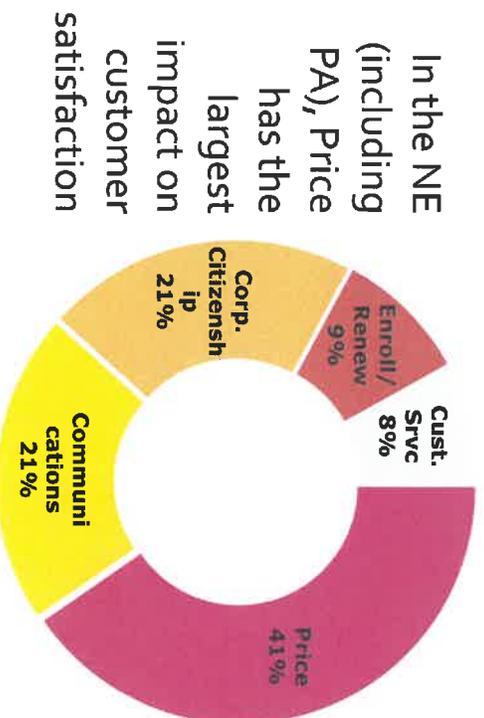
²⁰ 66 Pa.C.S. § 2802(12).

²¹ Statutes or parts of statutes which relate to the same persons or things or to the same class of persons or things are to be construed together, if possible. 1 Pa.C.S. § 1932 (relating to statutes in pari materia); *City of Philadelphia v. F.A. Realty*, 95 A.3d 377, 389 (Pa. Cmwlth. 2014).

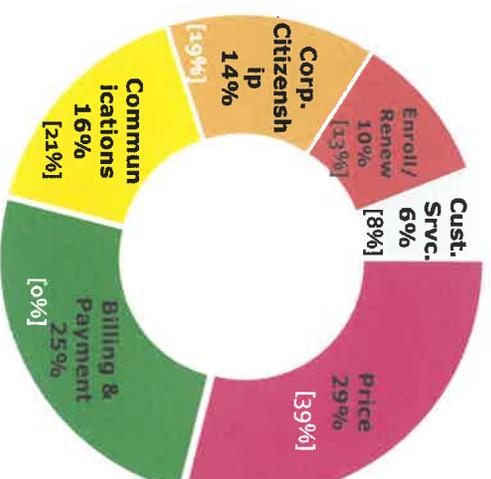
CUSTOMER RELATIONSHIPS DRIVE CUSTOMER SATISFACTION

A supplier's ability to have a direct relationship with the customer unequivocally impacts the customer's perceptions of his or her supplier and plays an important role in determining the customer's satisfaction with that supplier and the services it provides

Northeast (incl. PA)



Texas



In contrast, in Texas, where the supplier manages the relationship with customers, Billing & Payment has an almost equal impact on customer satisfaction as price

[Results after removing

Billing & Payment from the analysis]