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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 **Comments of PECO Energy Company on the Supplier Consolidated Billing Topics Identified in the Commission's March 27, 2018 Notice of *En Banc* Hearing.**

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 :

**COMMENTS OF PECO ENERGY COMPANY
ON THE SUPPLIER CONSOLIDATED BILLING TOPICS IDENTIFIED IN THE
COMMISSION’S MARCH 27, 2018 NOTICE OF *EN BANC* HEARING**

I. INTRODUCTION AND OVERVIEW

Pursuant to the Pennsylvania Public Utility Commission’s (the “Commission”) March 27, 2018 Notice of *En Banc* Hearing on Implementation of Supplier Consolidated Billing (“SCB”), PECO Energy Company (“PECO” or the “Company”) submits these comments on the SCB topics identified in the Commission’s Notice.

Over the past several years, the Commission has considered the legal and public policy issues raised by SCB and thus far has declined to proceed with SCB implementation. Most recently, the Commission rejected a petition by NRG Energy, Inc. (“NRG”) to implement NRG’s vision of SCB for electric generation suppliers (“EGSs”).¹ As the Commission considers the implications of SCB on a more general basis in this proceeding, there are a number of fundamental issues that should be addressed, including: (1) the consistency of SCB with the Public Utility Code (the “Code”), which assigns substantial billing and customer protection obligations to electric distribution companies (“EDCs”); (2) the ability of the Commission to enforce customer protections against an EGS using SCB, including requirements for proper

¹ See *Petition of NRG Energy, Inc. for Implementation of Electric Generation Supplier Consolidated Billing*, Docket No. P-2016-2579249 (Order entered January 31, 2018) (the “NRG Order”).

termination of service; (3) the risk of harm to customers generally, and low-income customers in particular, that could result from the transfer of billing and customer protection obligations from the EDC to the EGS under SCB; (4) the level of interest in SCB in the EGS community and the risk of harm to the retail electric market if only a limited number of EGSs are capable of meeting SCB requirements; and (5) the costs of implementing SCB and responsibility for those costs. PECO appreciates this opportunity to support the Commission's inquiry into these important issues.

II. RESPONSE TO SUPPLIER CONSOLIDATED BILLING TOPICS

A. LEGAL

1. *Is SCB permitted under Chapters 14 and 28 of the Public Utility Code, 66 Pa. C.S. §§ 1401-1419, 2801-2815? If so, what limits, if any, are imposed by the Public Utility Code? In particular, does the language in Section 2807(c) limit the Commission to only (1) dual billing and (2) EDC consolidated billing? Does the statutory language in Chapter 14 require that customer billing functions, especially those related to service connections, payment arrangements, terminations of service and reconnection of service, are functions that are to be performed solely by the EDC?*

In the NRG Order, the Commission explained that SCB is a “billing option” for customers to receive a single, consolidated bill for electric service. Under SCB, an EGS would bill customers for both the customer's EDC distribution charges as well as the EGS's generation and transmission charges, and customers would not receive a bill from their EDC.² As in NRG's petition, SCB generally envisions that the EGS would be responsible for collecting all amounts due from a customer, which necessarily implicates the full range of issues on which the

² NRG Order, p. 2.

Commission seeks comment, including customer termination, low-income assistance, and interaction with other Commission-authorized retail programs.³

The type of billing arrangements SCB creates are not consistent with provisions of both Chapters 28 and 14 of the Code and therefore cannot be implemented absent a change in Pennsylvania law. Under Section 2807, entitled “Duties of Electric Distribution Companies,” the Code details the billing methods permitted in the Commonwealth:

(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. . . .

The only billing methods authorized under Section 2807 are utility consolidated billing (“UCB”) and dual billing, and the type of bill received is the customer’s choice. The statute does not provide authority for an EGS to bill both EGS and EDC charges, which are essential to SCB, nor does it limit the ability of a customer to receive separate bills from its EDC and an EGS.

Section 2807(d), 66 Pa. C.S. § 2807(d), also states that an EDC shall, regardless of bill type, continue to provide essential customer service functions, including complaint resolution and collections:

(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.

While the Commission did approve SCB as a billing option in some EDC restructuring settlements in 1998 under Chapter 28,⁴ subsequent law has underscored an EDC’s customer

³ The Company notes that EGSs offering SCB would need to bill for a number of other charges collected by EDCs and listed as separate line items on EDC bills, including distribution system improvement charges, state tax adjustment surcharges, and energy efficiency and conservation program costs.

service responsibilities. Chapter 14, enacted in 2004, assigns a variety of customer service 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.⁵ The statute does not authorize an EGS to perform all or a portion of these critical customer service functions.

Under Pennsylvania law, such clear statutory obligations of EDCs cannot be transferred to an EGS. In *Dauphin County Industrial Development Authority v. Pennsylvania Public Utility Commission* (“DCIDA”),⁶ the Court considered the plain language of Section 2807(f)(5), which requires a default service provider (a role currently fulfilled by EDCs) to offer a Time-of-Use (“TOU”) rate, and a Commission-approved EDC pilot which relied upon EGSs to provide TOU offerings. The Commonwealth Court concluded that the pilot impermissibly transferred the EDC’s TOU obligations to an EGS. The Court highlighted the plain language of the statute and the legislature’s understanding of the difference between a default service provider and an EGS:

The legislature’s unqualified use of the words “shall offer” in Section 2807(f)(5) places the burden on the default service provider, in this case PPL, to offer Time-of-Use rates to customer-generators. The legislature knows the difference between a default service provider and an Electric Generation Supplier. Its decision to place the onus on default service providers was neither accidental nor arbitrary. Simply, Section 2807(f)(5) does not authorize a default service provider to pass along this obligation to an Electric Generation Supplier.⁷

As in *DCIDA*, Sections 2807(c) and (d) and Chapter 14 unambiguously state that EDCs shall provide billing and customer service functions that an SCB program would allocate to

⁴ NRG Order, p. 14.

⁵ 66 Pa.C.S. §§ 1404-1407, 1410.1.

⁶ 123 A.3d 1124 (Pa. Commw. Ct. 2015).

⁷ *DCIDA*, 123 A.3d at 1134.

EGSs. The transfer of these statutory duties from an EDC to an EGS is simply not consistent with existing law.⁸

2. *Would a purchase of receivables (POR) program where the EGS purchases the EDC's receivables be permitted under the Public Utility Code and Commission regulations?*

Yes, but a POR program in which an EGS is collecting amounts originally due EDCs would still require the transfer of billing, and possibly other customer service obligations, from the EDC to an EGS, which is not consistent with existing law as described above. Furthermore, if a customer does not owe any payment to the EDC because the receivables have been purchased by an EGS, the EDC would not be permitted under existing law to terminate electric service.⁹

A POR program in which EGSs purchase EDC receivables also raises a variety of practical issues that the Commission would need to address. For example, EDCs would need a high degree of confidence that: (1) the EGSs would actually pay money owed; and (2) in the unlikely event of an EGS default, EDC customers would be given “credit” for the amounts paid to the EGS for their EDC charges. The Commission should also consider whether the collateral requirements and level of call center support necessary to implement a POR program could preclude smaller EGSs from participating and thereby undermine a “level playing field” for

⁸ Cf. *Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania et al., v. Pennsylvania Public Utility Commission*, 120 A.3d 1087, 1101 (Pa. Commw. Ct. 2015) (citing Section 2807(c) and (d) and stating that “while the chosen EGS is obligated to provide the contracted supply, the public utility, or EDC, remains the direct contact with the customer on matters relating to billing and customer service”).

⁹ 66 Pa.C.S. § 1406(a)(1) (grounds for a public utility to terminate service include an undisputed delinquent account).

EGSs. Some EGSs have emphasized in other proceedings that smaller EGSs may not want, or be able, to perform the various functions required for SCB.¹⁰

3. *Given that POR programs are voluntary and the Commission could not require an EGS to purchase an EDC's receivables, what effect would that have on the viability of SCB if an EGS does not include a POR program in its SCB plan?*

If an EGS implemented SCB without purchasing the EDC receivables, a number of implementation issues would need to be resolved by the Commission. For example, if the billing EGS was only responsible for a portion of the receivables, it is unclear: (1) how customer payments would be applied to customer accounts (e.g., which receivable is paid down first?); (2) how payments would be transmitted to the EDC; (3) how collections would be handled (e.g., would the EGS only seek collection of its own receivables?); and (4) how dual service (gas and electric) customers would be handled. Payment priority, timely transfer of payments and collections are in turn relevant to termination of service issues and an EDC's level of bad debt expense. The Commission recognized the complexities involved in such a scenario in the NRG proceeding when it found that SCB may not be practical if an EGS did not want to purchase an EDC's receivables.¹¹

¹⁰ In the Retail Markets Initiative proceedings, the Pennsylvania Energy Marketers Coalition believed that retaining UCB was important, especially for smaller EGSs, that may not want, or be able, to perform the various functions required for SCB. *See Investigation of Pennsylvania's Retail Electricity Market: End State of Default Service*, Docket No. I-2011-2237952 (Order entered February 15, 2013) ("End State Order"), p. 68.

¹¹ *See* NRG Order, p. 60.

4. *If the Commission decides to explore these topics further, what are the preferred procedural methods for doing so?*

PECO does not believe that a further exploration of SCB will be productive absent a change in law and therefore makes no recommendation regarding a preferred procedural method for such exploration.

B. IMPACT ON THE MARKET

1. *How would implementation of SCB affect Pennsylvania's retail electric market?*

Pennsylvania has a robust retail market and nearly all Pennsylvania electric customers know that they can choose an EGS.¹² PECO believes that competition can deliver real choice, innovation, and value to customers and, to that end, has worked in a collaborative fashion with the Commission and its Office of Competitive Market Oversight to advance the development of the competitive electric market. In just the past few years, a variety of retail market enhancements have been implemented by PECO and other EDCs and paid for by customers, including EGS access to historical interval usage data¹³ and implementation of “seamless moves” and “instant connect.”¹⁴ If the Commission were to conclude that SCB were permissible, the number of suppliers who would be willing to forgo the ease and convenience of UCB and POR, where they have no bad debt risk, to opt for an SCB model where they assume the full burden of

¹² *PA PowerSwitch Attitudes and Usage Report*, October 2016, at 8.

¹³ See Docket No. M-2009-2092655.

¹⁴ See Docket No. M-2014-2401085. “Seamless moves” allows residential and small business customers to efficiently move their current EGS to a new location if certain qualifications are met. “Instant connect” capabilities permit EGSs to send the Company an enrollment transaction for a customer account that is still “pending,” which means the customer has requested service from PECO but the service start date is in the future. “Instant connect” gives customers the opportunity to receive service from an EGS starting the first day a new account begins to receive distribution service from PECO.

billing, collections and bad debt *and* attempt to deliver additional benefits to customers remains unknown.¹⁵

2. *What are the benefits to consumers associated with implementation of SCB?*

Customer benefits from SCB have not been established. It will be important for the Commission to consider any evidence of SCB customer benefits along with the potential negative effects of SCB on customers, which could include a reduction in the enforceability of customer protections and the imposition of costs for duplicative call center, billing and customer service infrastructure.

3. *Is implementation of SCB necessary to facilitate the introduction of products and services to retail electric customers in Pennsylvania and to boost competition in the electric generation market? Is SCB needed to facilitate the provision of smart-meter related products like Time-of-Use (TOU)?*

It is important to note that the objective of the Electricity Generation Customer Choice and Competition Act (the “Competition Act”) was to lower the price of electricity for customers, not to facilitate the purchase of non-basic EGS products and services.¹⁶ In addition, the requirement to separately bill basic generation products and non-basic products protects

¹⁵ See NRG Order, p. 6 (Noting the Commission’s concern 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.”).

¹⁶ For example, the Competition Act’s Declaration of Policy specifically notes that the *rates* for electricity in the Commonwealth were higher than the national average and that competitive market forces were more effective than economic regulation in controlling the *cost* of generating electricity. 66 Pa.C.S. §§ 2802(4), (5); *see also* NRG Order, p. 21 (“the purpose [of electric industry restructuring] was to lower electricity costs”).

customers by helping to ensure that terminations are based solely on the non-payment of basic charges.¹⁷

PECO's UCB can accommodate basic generation products offered by EGSs, including TOU rates. EGSs also currently have access to a variety of customer data via the eligible customer list, including usage information unless the customer restricts its release. For non-basic generation value added products and services, EGSs may independently offer and bill such products and services to customers.

4. *What effect would implementation of SCB have on standard offer programs (SOP) and how would they interact, if at all?*

In PECO's experience, the majority of SOP participants are customers who called the Company to move service to a new address or to initiate service. If EGSs implementing SCB were permitted to participate in SOPs, it would be important to have EDCs retain the responsibility to handle customer inquiries regarding the program. If EGSs handled the inquiries, there is a potential for bias or a conflict of interest depending upon whether that EGS currently participates in a SOP or is offering rates that differ from the SOP rate. In any case, the Commission should consider whether customer confusion about who to call (EDC or EGS) for what issue (e.g., billing question, quality of service question, SOP-related question) could lead to dissatisfaction with the SOP overall. For PECO's dual service customers who currently receive a single bill for all gas and electric charges, participation in SOP could also mean they begin to receive two bills if their assigned EGS participates in SCB, making SOP less "standard" for those customers.

¹⁷ 52 Pa. Code §§ 56.13 (requiring separate billing of basic and non-basic charges), 56.83(3) (service may not be terminated for non-payment of non-basic charges).

C. MECHANICS – HOW IT WOULD WORK

1. *Should an EGS be required to meet more stringent financial/bonding requirements, demonstrate that it possesses the technical expertise to perform billing and customer service functions, or make any other showing before being permitted to offer SCB? If so, what should those requirements be and what process should the Commission use to review an EGS's eligibility?*

In order to protect customers, the Commission should consider requiring SCB-participating EGSs to demonstrate that they have the technical expertise and capacity to fulfill all billing, customer protection and customer service obligations under the Code and the Commission's regulations. PECO notes, however, that the enforceability of such obligations against EGSs is not clear.¹⁸ The Commission should also consider the cybersecurity implications of transitioning certain billing and customer service obligations to an EGS, including the implications for the protection of customer information.

The Commission already requires EGSs to meet bonding requirements, and the appropriate bonding requirements for EGSs seeking to offer SCB and manage payment of EDC charges may be prohibitive. For example, if all of PECO's shopping customers received supply from EGSs implementing SCB, the Company estimates that its exposure for distribution charges each billing cycle would be approximately \$51 million.¹⁹ Beyond PECO's distribution charge exposure, SCB would also create a significant shift in the management and collection of EGS basic generation and transmission charges. PECO currently purchases and manages the

¹⁸ See NRG Order, pp. 32-33.

¹⁹ PECO calculated this amount by assuming annual shopping electric distribution revenue of \$726 million (including CAP customers and non-CAP customers) and a 25 day EGS bill to EDC charge payment lag.

collection of \$1.2 billion of EGS basic generation and transmission charges annually under its POR program.

2. *Would a pilot program involving an EDC working with an EGS or group of EGSs to design and implement a SCB platform be appropriate?*

As explained in these Comments, implementation of SCB – even in pilot form – would not be consistent with existing law. If the Commission were to conclude otherwise, it would still have to address a wide range of practical implementation issues, some of which are described in these Comments, to ensure that customer protections are not degraded and SCB costs are not improperly assigned to customers.

3. *What steps would the Commission need to take to ensure that EDCs receive payment according to the terms of the POR program in a timely fashion?*

Please see the Company’s response in Section II.A.2 concerning a POR program and the bonding requirement discussion in Section II.C.1.

4. *What type of costs may be incurred by EDCs and EGSs when implementing SCB in Pennsylvania’s retail electric market? Would the costs of implementation outweigh the potential benefits? Who should be responsible for paying those costs?*

PECO believes that the costs of SCB implementation should be borne entirely by all EGSs. PECO estimates that the Company’s information technology (“IT”) and business costs of implementing SCB would be \$4.6 million,²⁰ including changes to call center procedures and scripting, complaint response and processing, termination procedures and collections. These

²⁰ \$4.6 million is PECO’s initial estimate. The actual cost would depend upon the specific features of the SCB program and the changes needed to the Company’s billing system to, among other things, implement those features.

costs would not be offset by savings, as PECO and other EDCs would have to maintain their full customer support infrastructure (e.g., call center staffing, billing systems, complaint resolution panel) for other EGSs as well as in case an EGS using SCB exits the market or elects to discontinue SCB, or if a shopping customer returns to default service. In fact, PECO would likely have to hire additional personnel to coordinate billing complaints with the EGS and develop and implement call center script changes.

SCB also raises unique cost and implementation issues for PECO, which has over 500,000 dual service (gas and electric) customers. If SCB were implemented, PECO would need to create additional bill processing options for those customers, the receipt and application of LIHEAP grants would have to be modified, and bad debt risks associated with both electric and natural gas service would have to be clarified by the Commission. There would also be a greater risk of confusion for dual service customers because both the EGS and PECO call centers would handle their billing issues (EGS for electric, PECO for gas).

On the EGS side, the investment in personnel and technology to ensure that customers protections are maintained (e.g., call center staff trained to handle billing issues and customer complaints, and a billing system that can comply with Commission requirements for customer bills) would likely be significant. The Commission would also need to set forth specific notice requirements and customer education to be performed by the EGS to explain billing changes to customers. If SCB could only be implemented by dividing such obligations between EGSs and EDCs, the result of such a division could be duplicative costs for both EGSs and EDCs (and customers) as well as some level of customer confusion in ascertaining which entity can resolve issues. The Commission should also consider how the creation of multiple EDC and EGS call

centers could increase the time it takes to resolve concerns and lead to delays in addressing public safety issues.

Finally, the Commission should also evaluate the likelihood that SCB could increase the size and complexity of its obligations to enforce customer protections under the Code and the financial and staffing implications of that expanded responsibility. For those reasons, it may be appropriate to increase the assessment paid by EGSs to the Commission.

5. *Is it feasible/appropriate to designate an EGS offering SCB as default service provider? See 66 Pa. C.S. §§ 2803 (definition of default service provider), 2807(e) (relating to obligation to serve) and 52 Pa. Code § 54.183 (relating to default service provider).*

The Commission has the authority to approve an alternate default service provider and the Commission’s regulations provide a process to do so if necessary for the accommodation, safety and convenience of the public.²¹ There is no evidence that SCB is necessary for the accommodation, safety and convenience of the public, so a designation on that basis is not appropriate. PECO notes that the Commission has previously concluded that continuing the role of the EDC as the DSP will provide certainty of default service supply and retail market infrastructure for customers and market participants as the competitive landscape continues to evolve.²²

²¹ 52 Pa. Code § 54.183(c).

²² *See, e.g.,* End State Order, p. 20 (the Commission concluded that, at that time, “permitting the EDCs to continue to provide default service strikes an appropriate balance that allows the retail electric market to continue its fairly steady progress of organic growth while providing the Commission with the ability to take further action in the future, if necessary.”).

D. COLLECTIONS – TERMINATION

1. *Does an EGS offering SCB need the power to order termination of a customer's service?*

Consistent with the NRG proposal, PECO expects that an EGS offering SCB would require the power to order termination of a customer's service in order to support collection of charges due from that customer. The Commission should consider whether providing EGSs with the power to terminate a customer's electric service creates the potential for customer harm, as there is a tension between an EGS's interest in payment and the customer protections found in the Code and the Commission's regulations that can increase the time and expense associated with receiving customer payment. While EDCs also have an interest in receiving payment for their services, an EDC has express statutory obligations to provide and maintain customer service functions that are not imposed upon EGSs.²³ EDCs invest a significant amount of time and resources into making sure they adhere to the detailed requirements concerning the grounds for termination, customer notices prior to termination, and emergency circumstances that would postpone a termination. Even if customer protections were followed by an EGS, the Commission should consider how involving an additional entity in the termination process could create customer confusion and customer service delays.²⁴

2. *Would allowing an EGS to order an EDC to terminate a customer's service comply with Chapter 14 of the Public Utility Code, 66 Pa. C.S. §§ 1401-1419, and Chapter 56 of the Commission's regulations, 52 Pa. Code §§ 56.81 56.83, 56.91 56.101, 56.111 56.118?*

²³ 66 Pa. C.S. § 2807(d).

²⁴ See, NRG Order, p. 29 (finding that NRG's proposal to have EGSs involved in termination of service could confuse customers and add steps for consumers attempting to have their termination of service inquiries addressed).

In such a scenario, an EGS would be performing at least some of the termination functions that are clearly assigned to EDCs in the Code. As discussed in Section II.A.1, the transfer of clear EDC responsibilities to an EGS would not be consistent with existing law. PECO notes that the Commission has also expressed concerns about the consistency of EGS-ordered terminations with the Code as well as its own ability to enforce termination rules against EGSs:

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 . . . [W]e 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.²⁵

The Company believes that the potential for increased risk of harm to customers must be addressed by the Commission if it continues to consider implementation of SCB.

If an EGS is permitted to order an EDC to terminate services, the EGS should be obligated to request termination of service obligations consistent with the Code and the Commission's regulations. The EDC's responsibility should be limited to the physical termination of service, and the EDC should be held harmless from any claims that service was terminated unlawfully.

3. *If an EGS purchases an EDC's receivables and the EDC is no longer owed any money, does the EDC (or EGS) have the authority under the Public Utility Code and Commission regulations to terminate service for nonpayment of distribution charges?*

²⁵ NRG Order, pp. 32-33.

Section 1406(a) of the Code, 66 Pa.C.S. § 1406(a)(1), provides that a public utility may terminate service after appropriate notice for “[n]on payment of an undisputed delinquent account.” When the SCB-participating EGS purchases the EDC receivable, the customer owes nothing to the EDC. Under those circumstances, it is not clear that an EDC would be authorized to terminate service. The Commission considered this issue in the NRG proceeding and found that the fact that Chapter 14 does not appear to expressly bar an EDC from terminating service when it is not owed money is not by itself a compelling reason to allow such terminations.²⁶

4. *What safeguards should an EGS employ to ensure proper termination and reconnection of service by the EDC (e.g., steps to ensure timely sharing of data with EDCs; use of termination checklists; steps to promote customer understanding regarding the functions handled by the EGS versus those handled by the EDC)? What role, responsibility, and discretion does the EDC have in executing the termination process?*

If an EGS were permitted to order termination of service and the EDC retained all or a portion of the termination of service obligations, the Commission should consider how the complexities of implementation might create additional potential for customer harm. For example, an EDC would need to modify existing processes to enable it to: (1) know if a payment has been made to the EGS so that the termination should be stopped; (2) access customer billing information to make required phone calls; (3) ensure the termination is for failure to pay basic service charges (as opposed to value-added services); (4) ensure the termination is consistent with winter termination restrictions for low-income customers; and (5) communicate the cut location so that the EGS would charge the customer the appropriate restoration fee. The Commission would also likely need to develop a procedure for resolution of disputes between

²⁶ NRG Order, p. 29.

EGSs and EDCs regarding termination, as EGSs and EDCs may differ in their interpretation of Commission requirements and the specific facts and circumstances surrounding a potential termination. An EDC should retain full discretion not to terminate service in light of its statutory obligations.

5. *Would a blocking mechanism to prevent switching by customers who have made payment arrangements with the EGS be permitted under the Public Utility Code and Commission regulations, and prudent from a public policy perspective?*

Blocking a customer from switching to another EGS or from returning to default service is not consistent with the principles of customer choice. The legality of requiring a customer to take electric service from an EGS at an unregulated price is also questionable. Furthermore, the Commission should consider whether permitting some EGSs (i.e., those participating in SCB) to implement blocking mechanisms as an additional collection method could put other EGSs at a competitive disadvantage.

PECO notes that the Commission recently found that a blocking mechanism proposed by NRG would harm residential customers and did not have an adequately-developed legal basis.²⁷ The Commission further agreed with PECO and others that such a mechanism would be inconsistent with the Competition Act and could harm retail competition in general.²⁸ These significant concerns would need to be addressed prior to the implementation of any SBC blocking mechanism.

6. *What consumer protections, if any, should be implemented by an EGS if a blocking mechanism is permitted?*

²⁷ NRG Order, pp. 36-38.

²⁸ NRG Order, p. 37.

Please see the Company's response in Section II.D.5.

7. What steps should EGSs take to ensure proper accounting for value-added service (VAS) charges pursuant to Chapter 56 of the Commission's regulations, 52 Pa. Code §§ 56.23, 56.24, including allocation of customer payments to accounts with past due balances? Does the Commission have authority under the Public Utility Code to require an EGS to follow these regulations with respect to accounting for VAS charges? Should procedures be put in place to ensure that nonpayment of VAS not lead to termination of service? If so, what procedures should be implemented?

Section 56.83 of the Commission's regulations, 52 Pa. Code § 56.83, prohibits termination of service for nonpayment, in whole or in part, of non-basic services. EGSs would therefore need to develop a mechanism to ensure that non-basic services are excluded from the calculation of unpaid charges so that non-payment for these services would not trigger customer termination. It is unclear if the regulations identified by the Commission could be enforced against EGSs because the regulations refer to payments received by the public utility.

E. LOW-INCOME CUSTOMERS / ASSISTANCE PROGRAMS

1. Should EGSs offering SCB be permitted to include LIHEAP and CAP customers? If so, how would SCB and these programs interact, especially with regard to customer notification and education?

If an EGS chooses SCB, it must do so for all customers in a class, including CAP customers and customers who receive LIHEAP grants.²⁹ An EGS should not be able to "cherry-

²⁹ PECO is assuming for purposes of these Comments that customers participating in CAP are permitted to shop and notes that the Commonwealth Court recently affirmed the Commission's approval of a CAP customer shopping program in the service territory of PPL Electric Utilities Corporation. The program limits CAP customer shopping to a CAP Standard Offer Program ("CAP-SOP") in which EGSs choosing to participate must agree to serve CAP customers for a twelve-month period at a 7% discount off the "price to compare" at the time of enrollment. Additional conditions apply, including the ability of a customer to terminate a CAP-SOP contract at any time

pick” based on credit rating, payment history, usage, or similar characteristics. This is consistent with how UCB is handled under PECO’s Electric Generation Supplier Tariff, which provides that any EGS utilizing UCB for residential customers must do so for all of the EGS’s residential customers.

Ensuring that low-income customers continue to receive the protections provided for in the Code and the Commission’s regulations, however, would require the resolution of several issues.³⁰ First and foremost, and as discussed earlier in these Comments, it is not clear that the Commission would be able to enforce customer protection obligations against EGSs. Beyond the detailed obligations which apply to residential customers generally, special low-income protections, such as restrictions on winter terminations, security deposits, and LIHEAP recipient late payment fees, would have to be maintained. The ability of EGSs to enter into payment arrangements and the jurisdiction of the Commission to adjudicate complaints regarding those payment arrangements would also have to be addressed.

Second, the Commission should identify the duties of EGSs who, under SCB, would be a primary point of contact to discuss CAP and LIHEAP eligibility and process CAP applications. One of the main ways in which PECO determines if a customer is eligible for CAP is during billing calls. If a customer mentions that they are low income, the call center (after addressing the underlying billing or payment concern) will refer the customer to a CAP and credit issue call center with staff trained to handle CAP eligibility issues. PECO also screens customers for LIHEAP eligibility on a seasonal basis (November through April). If the EGS is responsible for all billing calls, the Commission should clarify whether the EGS must also be prepared to

without termination fees. *See Retail Energy Supply Association v. Pennsylvania Public Utility Commission*, No. 230 C.D. 2017 (May 2, 2018).

³⁰ *See, e.g.*, NRG Order, p. 46 (finding that NRG SCB proposal did not adequately address, among other things, how EGSs would ensure that protections to assist low-income customers remain in place).

identify and assist customers that may be eligible for CAP enrollment or a LIHEAP grant so those customers have the opportunity to receive assistance.

Third, the Commission should consider whether EGSs who implement SCB need the capability to calculate the appropriate bill credit for CAP customers and must become an authorized vendor for the Department of Human Services (in order to directly receive LIHEAP grants). CAP programs are different for different EDCs, which means an EGS implementing SCB in more than one service territory would need the expertise to manage multiple programs. Some CAPs, including PECO's CAP, have arrearage forgiveness tied to full and on-time payments. If the EGS handles all billing and payment, it would have to develop a process to notify the EDC when a timely full payment was made so that arrearage forgiveness should be given. Regarding LIHEAP grants, the Commission would need to provide guidance on how benefits should be applied. For example, if an EGS directly receives cash assistance that is greater than the customer's bill, and the customer returns to default service the following month, the excess cash assistance amount would need to be properly allocated. In addition, the overall handling of collection arrangements and pre-existing customer arrears would have to be addressed.

Finally, the Commission should consider the development of reporting obligations for EGSs regarding the implementation of low-income programs that are consistent with EDC reporting obligations under their Universal Service and Energy Conservation Plans.³¹ This reporting would provide the Commission and interested stakeholders with essential information about how an EGS is serving its low-income customer population.

³¹ See, e.g., *PECO Energy Company Universal Service and Energy Conservation Plan for 2016-2018 Submitted in Compliance with 52 Pa. Code §§ 54.74 and 62.4*, Docket No. M-2015-2507139.

2. *If EGSs offering SCB are permitted to include LIHEAP and CAP customers, how would these programs interact and what changes (statutory, regulatory and programmatic) would be necessary?*

As discussed in Section II.E.1, the Commission would need to address the appropriate duties and capabilities of an EGS offering SCB. The EDC would continue to implement its existing programs for those customers not receiving service from an EGS that participates in SCB. The EDC would likely have to increase its staff, or at least implement new staff training, to ensure that low-income customer issues are appropriately coordinated with the SCB-participating EGS.

3. *How would EGSs ensure that programs to assist low-income customers remain in place in accordance with the policy established in 66 Pa. C.S. § 2802(17) (relating to declaration of policy)?*

Please see the Company's response to II.E.1.

4. *How would EGS-implementation of SCB affect existing universal service billing procedures?*

Please see the Company's response to II.E.1.

5. *Would an EGS with SCB have an obligation to answer or refer to the EDC questions regarding low-income programs and to educate customers on the options and programs available?*

Please see the Company's response to II.E.1.

F. POSSIBLE ALTERNATIVES

1. *Changes to utility consolidated billing (UCB) to allow for additional flexibility needed to bill for smart-meter related services like Time-of-Use (TOU) and the addition of charges for EGS value-added services.*

As explained in Section II.B.3, PECO's UCB can already accommodate TOU rates offered by EGSs and the requirement to separately bill basic generation products and non-basic products protects customers by helping to ensure that terminations are based solely on the non-payment of basic charges. SCB is not necessary for customers to obtain these services.

2. *Unbundling of billing services. Possible models include providing open, non-discriminatory access to the EDC's billing system to EGSs and other billing entities at tariffed prices. What other unbundling models are possible?*

PECO has not developed models for unbundling of billing services. The Company will review and respond to proposals submitted by other parties in this proceeding.

3. *Unbundling of other related and specified services.*

Please see the Company's response to II.F.2.

4. *Allowance of third-party billing agents, such as EGSs, or an independent billing agent in place of UCB or SCB.*

EDCs have already developed, and customers have already paid for, billing systems that are consistent with EDC obligations under the Code and Commission's regulations. In light of that investment in existing systems, the additional benefits for customers that could be provided by third-party billing agents is unclear.

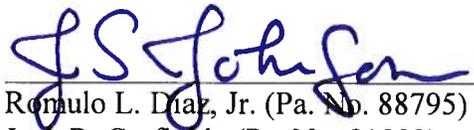
III. AVAILABILITY TO TESTIFY AT THE JUNE 14 *EN BANC* HEARING

If the Commission desires, PECO will make a witness available to testify at the June 14 En Banc hearing.

IV. CONCLUSION

PECO appreciates this opportunity to provide comments to the Commission on this important topic.

Respectfully submitted,



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