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May 4, 2018

Via Electronic Filing

Rosemary Chiavetta, Secretary
PA Public Utility Commission
PO 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 the Comments on behalf of the Electric Generation Supplier Coalition for Supplier Consolidated Billing (“EGS Coalition for SCB”) with regard to the above-referenced matter. The EGS Coalition for SCB consists of NRG Energy, Inc., Direct Energy, Inc., ENGIE Resources LLC, Interstate Gas Supply, Inc. d/b/a IGS Energy, and Just Energy Group, Inc.

Please note that the EGS Coalition for SCB requests the opportunity to participate together in a single panel at the *en banc* hearing scheduled for June 14, 2018 at 1:00 p.m. The EGS Coalition for SCB appreciates the Commission’s consideration of this request.

If you have any questions or need further information, please contact me. Thank you.

Sincerely,



Karen O. Moury

KOM/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 :

**COMMENTS OF ELECTRIC GENERATION SUPPLIER COALITION FOR
SUPPLIER CONSOLIDATED BILLING**

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May 4, 2018

Attorneys for EGS SCB Coalition

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I. INTRODUCTION

NRG Energy, Inc. (“NRG”), Direct Energy Services, LLC (“Direct”), ENGIE Resources LLC (“ENGIE”), Interstate Gas Supply, Inc. d/b/a IGS Energy (“IGS”), and Just Energy Group, Inc. (“Just Energy”), on behalf of themselves and their respective electric generation supplier (“EGS”) affiliates operating in Pennsylvania, file these comments pursuant to the March 27, 2018 Secretarial Letter issued by the Pennsylvania Public Utility Commission (“Commission”) at the above-referenced docket. Through its Secretarial Letter, the Commission solicited information from industry leaders and interested parties regarding the implementation of supplier consolidated billing (“SCB”). Specifically, the Commission posed a series of questions regarding legal authority to implement SCB; the impact on Pennsylvania’s retail electric market; the mechanics of SCB; the roles of EGSs and electric distribution companies (“EDCs”) in collection and termination activities; the inclusion of customers receiving low-income subsidies; and possible alternatives to SCB.

Collectively referred to as the “EGS SCB Coalition” or the “Coalition,” NRG, Direct, ENGIE, IGS, and Just Energy strongly support the timely implementation of SCB as a natural and necessary next step in moving Pennsylvania toward the robust market that has been envisioned for over twenty years. Implementation of SCB would enable EGSs to directly bill their supply customers for generation services they provide, while allowing customers to continue enjoying the convenience of receiving one electric bill that includes both the competitive supply charges of the EGS and the tariffed delivery charges of the EDC. If implemented, SCB would become another billing option from which consumers could choose, along with utility consolidated billing (“UCB”) and dual billing – the only two options that are currently available to consumers.

Under the Coalition's proposed framework, SCB would be a game-changer, taking Pennsylvania's retail market to the next level and finally delivering on the promises of electric choice and competition to introduce a wide array of innovative products and services to Pennsylvania's consumers. If EGSs are given the same opportunity that EDCs currently have of sending consolidated bills to their supply customers, the members of the SCB Coalition stand ready to invest in Pennsylvania.

As envisioned by the Coalition, SCB would:

- Enable consumers to receive one bill from their EGS for all electric supply and distribution charges, as well as for other energy-related products and services offered by EGSs;
- Make EGSs more visible and accountable to their customers;
- Preserve all existing consumer protections;
- Permit EGSs to forge direct and long-term relationships with their customers;
- Give consumers the opportunity to choose products and services tailored to their individual needs, and receive value-added services and products from their EGSs;
- Facilitate greater customer satisfaction levels; and
- Allow EDCs to realize cost savings from sending fewer bills, receiving fewer phone calls and reducing their uncollectible levels.

With 80 years of collective experience serving mass market customers and currently serving over one-half million mass market electric customers in Pennsylvania, the Coalition consists of industry leaders who are committed to the Pennsylvania electric retail market. The members of the Coalition have long supported Commission initiatives that are designed to achieve a robust competitive retail market, in which consumers have access to a broad array of diverse innovative product offerings and services that meet their individual needs. Consistent with prior Commission findings regarding the fundamental importance of a direct billing relationship

between EGSs and their generation supply customers, the Coalition views the implementation of SCB as vital to the continued growth of Pennsylvania’s retail market. For the Coalition, with a total of 65 years of experience providing SCB and collectively sending 2.6 million supplier consolidated bills each month in other jurisdictions, SCB is already “business as usual.”

Questions have been raised about what will happen to the elderly woman in Washington County or the low-income young man trying to raise a family in the City of Philadelphia if SCB is implemented. The answer is simple. Nothing will change for those electric consumers unless they choose to make a change. Indeed, if the Coalition’s proposals set forth in these comments are adopted by the Commission, nothing will change for the over 3 million electric customers in Pennsylvania who are currently receiving default service from their EDC unless those customers choose to make a change. If these proposals are adopted by the Commission, nothing will change for the nearly 2 million electric customers in Pennsylvania who are currently being served by EGSs unless they choose to make a change. But, if the Commission adopts the Coalition’s proposals, it will be giving all 5 million electric customers in Pennsylvania the opportunity to select new and innovative products and services they desire – even if they do not currently know what those products and services are. In short, the Commission would be empowering EGSs to differentiate themselves through an infinite number of ways, including product offerings, technological features, billing alternatives, energy efficiency, renewable energy and time-of-use options, so that consumers choose to make a change. The choice continues to remain with the customer.

While mass market customers may not be clamoring for the Commission to bring SCB to Pennsylvania, they would be if they knew what innovations would be possible if EGSs had the ability to directly bill them. Before the advent of transportation network companies, which arrange transportation services with private drivers in personal vehicles through a mobile application, the

traveling public did not clamor for access to such services. Once consumers knew about the benefits of such services, they were loud and clear in letting their demands known to regulators. Seldom do we as consumers know what products and services the innovators are creating that we will come to demand when the products or services are made available. The Coalition is simply asking the Commission to empower suppliers in Pennsylvania's retail market to be the innovators that deliver the products and services that electric customers have not yet even imagined as possible but will demand once they are presented to them by suppliers who understand their individual needs. By enabling SCB, the Commission would preserve Pennsylvania's status as a national retail markets leader and permit EGSs to deliver the promises of a true competitive market.

The sweeping transformations in the cellular telephone industry are an excellent example of the type of consumer-driven solutions that can come from a robust and fully functioning competitive retail market. In the twenty plus years since electric choice was made possible in Pennsylvania, advancements in technology have transformed the huge brick-like mobile phones of the mid-90s to the sleek and stylish smartphones we carry with us today.



No one could have imagined that in less than twenty years, mobile phones could have made the leap from just being the alternative to landlines to becoming a computer, GPS, radio, camera, bank and our lifeline to the Internet, and still be able to fit into your pocket. Yet, in that same twenty-year life of electric choice in Pennsylvania, innovation in the products and services that are offered

to electric consumers has been limited. One of the primary reasons for the limited availability of innovative product offerings in Pennsylvania's retail electric market is that EGSs are unable to directly bill customers through the consolidated bill they demand.

Through the ability to send consolidated bills that include charges for all electric services, EGSs will forge direct and long-term relationships with their customers. By enabling these relationships through SCB, the Commission can provide a level of regulatory certainty that promotes EGS investment, which in turn enhances consumer access to a greater variety of value-added products and services – a cornerstone of a well-functioning competitive market.

The effectiveness of this monthly channel for establishing long-term relationships with customers cannot be overstated. By providing a direct billing relationship between EGSs and their customers, SCB would enable EGSs to establish trust and loyalty with those customers and be more than a line item on a default service provider's bill. With these direct relationships forged, EGSs would better understand what their customers want and allow them to deliver new product offerings that respond to those desires, including tools that allow the customers to budget their energy dollars more effectively. Even having access to the billing data itself – how soon the customer pays, what payment method the customer uses, whether the customer pays in a lump sum or through installments – gives EGSs insights as to what is important to their customers, enabling them to develop products and services that respond to those priorities.

Following the widespread deployment of smart meters and the development of data sharing protocols, SCB is the next natural step in the continuum for Pennsylvania's retail electric market. While Pennsylvania has made great strides in bringing smart meter technology to consumers and in enabling EGSs to obtain access to the data, progress cannot stop there. In order to realize the full potential of these investments and commitments, it is critical for the Commission to provide

EGSs with the power to compete with one another in leveraging that data to educate consumers about their usage and creating new and innovative products and services that are tailored to fit their customers' needs.

Importantly, SCB would also rectify a serious deficiency that is currently operating as a barrier to the continued development of retail competition in Pennsylvania. Despite the Commission's strong support for electric choice for over twenty years, the EDCs have successfully maintained their dominant position in Pennsylvania's retail electric market. Providing default supply service to nearly two-thirds of their distribution customers, the EDCs are the only entities in the market who are able to perform consolidated billing functions. Capitalizing on this monopoly status and despite their core functions of delivering electricity, the EDCs routinely portray themselves to consumers as "the energy company." Casting themselves in this light, the EDCs have perpetuated brand loyalty and provided a platform to sell non-commodity products and services to customers that are unrelated to their functions as delivery companies.

On a monthly basis, the EDCs use the utility bill to sell distribution customers a whole host of products and services and to connect with those customers on a myriad of topics that go well beyond their core functions. For example, the FirstEnergy companies are promoting products "you might not expect from your utility" consisting of a "range of fresh, proven and practical product and service solutions...that provide greater comfort, convenience and security in your life."¹ Through these and similar efforts, the EDCs have placed themselves in the role of the EGSs' biggest competitor.

¹ <https://www.firstenergycorp.com/content/customer/products/smartmart.html>

EGSs should not be competing with EDCs but rather should be competing with other EGSs. More active EGS participation in the retail market, with EGSs investing in the Commonwealth and using technology to develop innovative product offerings, can only be good for Pennsylvania and its consumers. As Chairman Brown has observed, “we want innovative companies to choose to do business in the Commonwealth. Encouraging this type of investment creates jobs, improves the economy, and benefits consumers.”² Pennsylvania is a place “where innovative companies...can invest and grow.”³ When EGSs are able to truly compete, consumers benefit from more competitive prices, innovative product offerings and better customer service.

II. COMMENTS

A. Overview of EGS SCB Coalition

The Coalition consists of five energy industry leaders, who have eighty years of collective experience serving mass market customers. As a group, the Coalition members currently serve over one-half million mass market customers in Pennsylvania, which comprise nearly one-third of Pennsylvania’s shopping mass market customers. Together, the Coalition members send a total of 2.6 supplier consolidated bills each month in other jurisdictions and collectively have 65 years of experience providing SCB. For the Coalition, SCB is already “business as usual.”

1. NRG

NRG is a leading integrated power company in the U.S. A Fortune 500 company, NRG creates value through best in class operations, reliable and efficient electric generation, and a retail

² *Application of Freed Man Autonomous Vehicles LLC*, Docket No. A-2017-2585722 (Joint Statement dated February 9, 2017).

³ *Id.*

platform serving residential and commercial businesses. Its retail electricity providers serve almost three million customers across more than a dozen states. NRG's retail companies have more than 25 years combined experience with retail energy competition and customer service.

NRG's Texas-based retail suppliers are responsible for billing and collections – for commodity, transmission and distribution services – sending out more than 2 million bills every month. NRG's East Retail business is headquartered in Philadelphia, Pennsylvania. The company has four licensed retail companies that are actively serving residential, commercial, industrial and institutional customers across Pennsylvania.⁴ These NRG retail companies offer customers a range of products including 100% renewable, cash back rewards and loyalty points.

2. **Direct Energy**

Direct Energy is wholly owned by United Kingdom-based Centrica plc, one of the world's leading integrated energy companies that operates in seven countries with more than 37,000 employees worldwide. With nearly five million customers, Direct Energy is one of the largest providers of electricity, natural gas, renewable and related services in North America. Direct Energy and its Texas affiliates are responsible for calculating and sending bills which include supply, transmission and distribution charges as well as value-added products/services (including the company's own smart thermostat Hive) to over 200,000 customers each month. Direct Energy serves electric,⁵ natural gas and solar customers of all classes across the Commonwealth of

⁴ *Reliant Energy Northeast LLC d/b/a NRG Home and NRG Business*, Docket No. A-2010-2192350 (December 2, 2010); *Green Mountain Energy Company*, Docket No. A-2011-2229050 (February 16, 2012); *Energy Plus Holdings LLC*, Docket No. A-2009-2139745 (January 15, 2010); *Independence Energy Group d/b/a/ Cirro Energy*, Docket No. A-2011-2262337 (October 31, 2011).

⁵ *Direct Energy Business, LLC*, Docket No. A-110025 (November 19, 2008); *Direct Energy Services, LLC*, Docket No. A-110164 (April 21, 2005); *Direct Energy Business Marketing, LLC*, Docket No. A-2013-2368464 (October 22, 2014).

Pennsylvania. The company has a physical presence in Pennsylvania with five offices (including Direct Energy Business' headquarters in Pittsburgh), as well as representation of all four of the company's franchised home services brands across 22 territories: One Hour Heating and Air Conditioning; Benjamin Franklin Plumbing; Mr. Sparky (electrical service); and Airtron (HVAC service).

3. ENGIE

ENGIE is a business unit of ENGIE North America and part of the internal energy group ENGIE. As the fourth-largest electricity supplier to non-residential consumers in the United States, ENGIE delivers a combination of products and services, highly rated customer service and financial strength that provides unique and compelling value to its customers. ENGIE offers solar and other renewable energy options, demand response, and on-bill financing.

ENGIE offers electricity service to residential and small business customers in numerous states, including Pennsylvania,⁶ and provides SCB services for its customers in Texas, under the brand Think Energy.

4. IGS Energy

IGS Energy and its affiliated companies, IGS Generation, IGS Solar, and IGS CNG, provide a diverse range of energy services to customers throughout the country. Those products and services include retail natural gas and electric supply, distributed energy generation resources, demand response, frequency regulation, energy efficiency and home warranty products.

⁶ *ENGIE Resources Inc.*, Docket No. A-110156 (July 18, 2002); *ENGIE Retail, LLC d/b/a Think Energy*, Docket No. A-2011-2268361 (December 16, 2011).

IGS serves over 1.2 million customers in over 15 states including electric⁷ and natural gas customers in Pennsylvania. In Texas, IGS Energy has been directly billing customers through SCB for more than five years. IGS Energy maintains six sales offices in the Commonwealth which are located in the western, central and eastern parts of the state.

5. Just Energy

Just Energy Group Inc. is the parent company of Amigo Energy, Just Energy Solutions, Inc. (f/k/a Commerce Energy),⁸ Green Star Energy, Hudson Energy, Tara Energy, and TerraPass. Specializing in electricity, natural gas, solar and green energy, the Just Energy corporate family serves close to two million residential and commercial customers, including electric and natural gas supply customers in Pennsylvania.

Just Energy's affiliates generally offer a wide range of energy products and home energy management services such as long-term fixed-price, flat bill programs, smart thermostats and residential solar solutions. Just Energy's Texas-based subsidiaries have conducted SCB since 2002, sending out more than 39 million bills since then covering a wide range of products. Just Energy and its affiliates serve residential and commercial customers throughout the Commonwealth and has an office in Bala Cynwyd, Pennsylvania.

B. Request to Participate in *En Banc* Hearing

The Coalition requests the opportunity to participate together in the *en banc* hearing as a single panel of EGS representatives who are committed to Pennsylvania's retail market and are

⁷ *Interstate Gas Supply, Inc., d/b/a IGS Energy*, Docket No. A-2011-2228643 (May 19, 2011).

⁸ *Just Energy Solutions, Inc., d/b/a Just Energy*, Docket No. A-110117 (September 15, 1999); *Just Energy Pennsylvania Corp.*, Docket No. A-2009-2097544 (June 21, 2012); *Hudson Energy Services, LLC*, Docket No. A-2010-2192137 (February 11, 2011).

united as to the way in which SCB should be structured to ensure its successful implementation. With NRG having filed the petition in December 2016 that most recently initiated this dialogue and now having partnered with four other EGSs that are active in Pennsylvania's market and are already providing SCB in other jurisdictions, the Coalition consists of industry leaders with extensive experience to share, warranting a meaningful seat at the table.

As an initial matter, with respect to the format of the *en banc* hearing, the Coalition suggests that the amount of time that the Commission has allotted is likely to be insufficient to hear from all interested parties who express an opportunity to speak. Rather than selecting who will be permitted to provide input and unduly limiting the amount of time that each person may address the numerous issues raised by the March 27, 2018 Secretarial Letter, the Coalition suggests that the Commission specify certain topics that will be discussed at the June 14, 2018 *en banc* hearing and reserve other topics for future *en banc* hearing dates. Alternatively, the Commission should consider rescheduling the *en banc* hearing to a two-day period during which it could devote more than a few hours to engaging in a dialogue with industry leaders and interested parties. It is noteworthy that the Coalition recently participated in *en banc* hearings held by the Maryland Public Service Commission ("PSC") on the topic of SCB, which spanned two days and consisted of over ten hours of hearing time. The Coalition's panel alone lasted three hours.⁹

Also, while the Secretarial Letter appears to envision a discussion at the *en banc* hearing of whether SCB implementation is authorized by the Public Utility Code and regulations, the Coalition believes that such arguments are more appropriately addressed through written comments. Rather than devoting time at the *en banc* hearing to a debate among lawyers concerning

⁹ Regardless of how the Maryland PSC ultimately decides the issue, the Coalition is satisfied that it had the opportunity to present all relevant information for the PSC's consideration.

the legality of SCB, the Coalition urges the Commission to dedicate the bulk of available time at the *en banc* hearing to learning from industry leaders how SCB would work, how the competitive retail market in Pennsylvania would benefit from its implementation and how consumers would in turn experience greater satisfaction and have enhanced opportunities to select innovative products and services that are individually tailored to meet their own unique needs.

The Coalition further suggests that it is imperative for the Commission to think outside the normal structure for *en banc* hearings. For instance, rather than establishing panels of utility, supplier and consumer representatives and splitting the time equally among each group, the Coalition believes that it is necessary for the Commission to creatively approach the structure for this *en banc* hearing. Given the many different sizes and business models of EGSs, it is important for the Commission to allow sufficient time for EGS input so that varying views among EGSs may be heard separately from the feedback of the Coalition. If the Commission simply lumps all EGSs together in one panel to hear the “supplier perspective,” the Coalition is of the view that the Commission will have unnecessarily limited the valuable input that it would otherwise receive from the industry.

Another downside to the traditional three-panel approach for SCB is that the EDCs and the consumer representatives have generally been aligned on this topic, with both focusing on the adequacy of consumer protections. If supplier, utility and consumer groups are each given equal time to make presentations to the Commission, the result will be lopsided in that the Commission will hear the same (anti-SCB) messages from two different panels. Moreover, given the fact that EGSs are the ones competing in the retail market and desiring to offer Pennsylvania consumers the innovative products and services they demand similar to what they are already doing in Texas, it is imperative that their input be adequately presented and considered.

Therefore, if the Commission adheres to the three-hour *en banc* hearing on June 14, 2018 and uses a panel approach, the Coalition suggests placing utilities and consumer groups on the same panel in order to allow sufficient time for the Commission to hear from various different EGS viewpoints and to ensure all perspectives are considered. Short of holding a series of topic-specific *en banc* hearings, an approach that would be ideal is for the Commission to hear first from the Coalition; then to give consumer groups and utilities an opportunity to express their views; and thereafter receive feedback from the Retail Energy Supply Association, individual suppliers and other supporters of SCB, including companies that may not currently be EGSs but would come to Pennsylvania if they can send consolidated bills to consumers. Finally, the Coalition believes that the Commission would greatly benefit from consulting with representatives of the Public Utility Commission of Texas (“PUCT”) regarding experiences of implementing SCB from the perspective of regulators, whether this dialogue occurs within the context of the *en banc* hearing or through a separate forum.

C. The Time to Implement SCB in Pennsylvania is Now

The EGS SCB Coalition commends the Commission for taking this important next step to move forward with SCB and stands ready to assist the Commission in enabling Pennsylvania to move forward with this game-changing initiative that is necessary to take its successful electric choice program to the next level. The Commission has a long history of promoting the development of a robust electric retail competitive market. From the outset of electric choice, the Commission has taken its role seriously of ensuring that any barriers to the ability of EGSs to compete in the retail market are removed. Specific measures taken by the Commission have

included development of the eligible customer list, the account number access mechanism, instant connects, seamless moves, accelerated switching and standard offer programs.¹⁰

The Commission's strong support for competitive markets has entailed endorsement of SCB on many occasions. Dating back to 1998, the Commission approved provisions in restructuring settlement agreements for several EDCs that would have allowed EGSs to provide consolidated billing services.¹¹ Since that time, the Commission has approved many electronic data interexchange ("EDI") transactions that were developed by the Electronic Data Exchange Working Group ("EDEWG") in order to implement SCB.¹² During the electric retail markets investigation ("RMI") that the Commission launched in 2011, it concluded that a market with the choice of SCB, UCB and dual billing fully complies with Section 2807(c), which gives customers the right to choose their billing option.¹³ Notably, in its *End State Final Order*, the Commission also recognized the importance of establishing a relationship between EGSs and their customers, noting that the link between the EDC and the customer has been a barrier to a fully competitive market. The Commission further acknowledged at that time that it is confusing for customers to receive a bill from the utility that contains supply charges from the customer's chosen supplier.

¹⁰ See, e.g., *Final-Omitted Rulemaking Order Regarding Standards for Changing a Customer's EGS*, Docket No. L-2014-2409383 (Order entered April 3, 2014).

¹¹ See, e.g., *Application of PECO Energy Company for Approval of its Restructuring Plan*, Docket No. R-00973953 (Order entered May 14, 1998) ("*PECO Restructuring Order*"). SCB was referred to as "competitive billing" at that time.

¹² See *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).

¹³ *Investigation of Pennsylvania's Retail Electricity Market*, Docket No. I-2011-2237952 (Order entered February 15, 2013) ("*End State Final Order*").

More recently, in the Order addressing the *Petition of NRG Energy, Inc. for Implementation of Electric Generation Supplier Consolidated Billing*,¹⁴ the Commission declared that it continues to be of the opinion previously expressed as part of the electric RMI that “SCB will facilitate the offering of innovative new products and services and will also help the supplier in establishing a brand identity with the customer.”¹⁵ Further, through unanimous adoption of the Joint Motion of Chairman Gladys M. Brown and Commissioner Norman J. Kennard on January 18, 2018, the Commission described the proceeding culminating in issuance of the *SCB Order* as “another step in the Commission’s deliberation of SCB.”¹⁶ The Commission also recognized, through adoption of the Joint Motion, that implementing SCB will provide EGSs with the ability to offer value-added services such as home security, HVAC maintenance, surge protection, and other services associated with smart meter deployment.¹⁷

Specifically, with respect to the advent of smart meters, the Commission observed that this technological advancement “brings many potential benefits that would be greater utilized with corresponding upgrades to equipment within houses and businesses.” Noting that the competitive market makes EGSs “well situated to have the expertise and incentive to provide such upgrades in order to best utilize the capabilities of smart meters,” the Commission recognized that “EGSs are hampered by the fact that charging for EGS value added services is effectively limited to dual billing.”¹⁸

¹⁴ Docket No. P-2016-2579249 (Order entered January 31, 2018) (“*SCB Order*”).

¹⁵ *SCB Order* at 61.

¹⁶ SCB Motion adopted on January 18, 2018 at 2.

¹⁷ *Id.*

¹⁸ *Id.*

Against this backdrop where the Commission has repeatedly realized the critical role of SCB in the continued development of a retail market, the EGS SCB Coalition stands ready to help Pennsylvania move the concepts forward to full implementation in a way that ensures the continuation of existing customer protections while giving EGSs the regulatory certainty that is needed to invest in the Pennsylvania retail market. By enabling EGSs to establish direct billing relationships with their customers, the Commission would be creating a retail market that promotes investment by suppliers in Pennsylvania. In turn, this investment would allow EGSs to learn what their customers want from their energy supplier and to develop the innovative product offerings that are tailored to meet those unique needs of their customers. Through this innovation that would be spurred due to the EGSs' direct relationship with their customers, a robust market would emerge in which customers may choose from a wide array of innovative products and services from EGSs.

D. Essential Elements of SCB as Proposed by the Coalition

In basic terms, a qualified EGS choosing to provide SCB services would be responsible for billing and collecting from the customer for both the EGS's generation service and the EDC's distribution charges. This model would replicate the normal practice followed by other providers of goods and services that directly bill their customers for those products or services, including any associated delivery charges. For instance, when consumers purchase essential merchandise like groceries or clothing from Amazon, they do not pay the delivery company for those commodities. Rather they pay Amazon – the seller of those commodities. Similarly, stores that sell light bulbs do not require customers to pay a separate delivery charge to the trucking company that transported the products to the store. Rather, the delivery charges are billed by the store as part of the cost of the light bulbs. To successfully allow this same model to exist for payment of electric generation services, the Coalition's proposal for SCB includes the following key elements:

- 1) the preservation of existing consumer protections;
- 2) the establishment of qualifications for

participating EGSs; 3) the full purchase of EDC accounts receivables by EGSs; and 4) the ability of the EGS to initiate the termination process for non-payment.

1. Preservation of Existing Consumer Protections

So as to preserve existing consumer protections, the Coalition proposes that EGSs be required to certify during the qualification process that they will comply with the Public Utility Code, Commission regulations and any conditions placed on SCB EGSs by the Commission. Such compliance would include adherence to all customer protections afforded by Chapter 14 of the Public Utility Code¹⁹ and Chapter 56 of the Commission’s regulations,²⁰ including those provisions establishing standards for deposits, payment agreements, termination, reconnection and bill content. Further, under the Coalition’s proposed framework, customers would retain the ability to switch to other EGSs or return to default service at any time, consistent with the terms of their agreements with the EGSs. The Coalition also proposes that SCB not be made available at this time to customers on low-income assistance programs, customers receiving LIHEAP subsidies or customers holding protection from abuse orders.

As SCB is already “business as usual” for the EGS Coalition, its members are well-poised to bring the systems that are in use elsewhere and help the Commission and other stakeholders determine what modifications are necessary to reflect the Pennsylvania rules and market. The Coalition can also assist in identifying revisions to Chapter 56 that may be necessary. To that end,

¹⁹ 66 Pa.C.S. Ch. 14.

²⁰ 52 Pa. Code Ch. 56.

the Coalition points to the extensive and detailed comments filed by NRG in April 2017 in the pending Chapter 56 rulemaking proceeding with that very objective in mind.²¹

Finally, the Coalition proposes that additional customer disclosure requirements will need to be established so that consumers understand exactly what they are selecting if they choose an EGS offering SCB. As with any change, consumer education is an important element of SCB implementation. To that end, the Coalition envisions the EGS consolidated bill being used to disseminate important information to consumers about who to contact for certain matters. For instance, the bill would prominently note that the customer should contact the EDC for outage issues or emergency-related matters, and that all other billing inquiries should be made to the EGS. If a customer still calls the EGS for outage or emergency issues, the EGS would be required to have a warm transfer arrangement in place to ease the process for the customer and ensure that the call is received promptly by the EDC.

2. Establishment of Supplier Qualifications for Participating EGSs

As to supplier qualifications, the Coalition believes it is essential that the Commission establish minimum financial standards and industry experience requirements for any EGS desiring to offer SCB. While the details of such qualifications could be developed by a work group of stakeholders and later approved by the Commission, the Coalition has devised an initial list of requirements, which are set forth below in response to the Commission's specific question on this topic.

²¹ *Notice of Proposed Rulemaking, Standards and Billing Practices for Residential Public Utility Services*, Docket No. L-2015-2508421 (Order entered July 21, 2016) (“Chapter 56 Rulemaking”). NRG’s comments are available at this link: <http://www.puc.pa.gov/pcdocs/1517574.pdf>

3. Full Purchase of Utility Receivables

Regarding the purchase of utility receivables, the Coalition proposes that SCB suppliers be required to purchase the full value of the EDC's receivables, meaning that they would be purchased at a zero discount rate and without recourse to whether customers paid their bills. The Coalition expects that the purchase would be on the same terms that the EDC purchases EGS receivables for the existing UCB.²² The EGS, in turn, would be responsible for collecting from the customer all the charges owing to the customer and for conducting collection activities.

4. Ability of EGS to Initiate Termination Process

To be effective in their collection activities, EGSs need the ability to manage their bad debt in the same way that EDCs currently do. For EGSs to be willing to offer SCB, it is imperative for the Commission to authorize EGSs to initiate the termination process by notifying the EDC of the customer's non-payment. While this feature of the program need not be activated from the outset and could be phased-in, the Coalition encourages the Commission to establish policy direction upfront announcing its commitment to support collection efforts of the EGSs. Importantly, the Coalition is not proposing that EGSs have the final say on whether terminations occur, but rather the ability to initiate the process by communicating with the EDC. The Coalition also reminds the Commission that EGSs have natural incentives to encourage payment by customers and to avoid

²² Stated another way, the EDC would bill the EGS directly via electronic data interchange ("EDI") for all charges owed for delivery service for each customer and the EGS would be responsible for paying the EDC in full. The EDI 810 transaction can be more fully developed to enable a full detailing of EDC charges. For example, in Texas, the 810 transaction has over 100 SAC codes that enable the utilities to enable a full detailing of EDC charges. For example, in Texas, the EDI 810 transaction has over 100 SAC codes that enable the utilities to detail charges for all services, allowances and credits to every customer.

termination since the latter means that the EGS's resources to acquire the customer are lost, along with any opportunity to sell additional products and services.

Through the communication to the EDC, the EGS would verify that the termination is for a reason that is authorized by Chapter 14 of the Code, and the EDC would have the opportunity to reject the request based on Chapter 14 criteria. Under the Coalition's proposal, the EDC – if it accepts the termination request – would thereafter handle the termination process, including issuance of notices, physical disconnection and reconnection. All exchanges of customer information between the EDC and EGSs with respect to these transactions would be timely and accurately handled through EDI, which is relied upon today to continuously process communications necessary for the effective operation of the competitive retail market.²³

E. Responses to Questions Posed by Secretarial Letter

Attached to the March 27, 2018 Secretarial Letter is a list of topics that will be discussed during the *en banc* hearing scheduled for June 14, 2018 where the Commission will seek information from industry leaders regarding the implementation of SCB. As explained in the Secretarial Letter, the issues identified in the attachment will guide the discussion at the *en banc* hearing but will not be the only questions or issues discussed. Each question posed in the attachment is addressed by the Coalition below.

²³ EDI transactions allow for the transfer and exchange of electronic data relating to customer information between the EDC and EGS computer systems by standard message formatting without the need for human intervention. *See Standards for Electronic Data Transfer and Exchange between Electric Distribution Companies and Electric Generation Suppliers*, Docket No. M-00960890, F.0015 (Order entered October 15, 1999).

1. Legal Issues

By the Secretarial Letter, the Commission questions whether SCB is permitted by Chapters 14²⁴ and 28 of the Public Utility Code.²⁵ The Commission specifically inquires as to whether any limits are imposed by the Code and whether the language of Section 2807(c) restricts the Commission to authorizing only dual billing and EDC consolidated billing. The Secretarial Letter further asks if the statutory language in Chapter 14 requires that customer billing functions, especially those related to service connections, payment arrangements, termination of service and reconnection of service, are functions that may be performed solely by the EDC. The Commission also seeks input on its ability to require EGSs participating in SCB to purchase the EDC's receivables and questions the viability of SCB if an EGS SCB plan does not include a POR program. Finally, the Commission asks for feedback on the preferred procedural methods for further exploration of SCB implementation.

Through these comments, the EGS SCB Coalition explains that the Commission has both express and implied legal authority under the Code to implement SCB. The Coalition further notes that nothing in the Code limits the power of the Commission to permit suppliers to issue consolidated bills to customers who select that option. Moreover, no provision in the Code entitles EDCs to be the only entity that may perform consolidated billing functions. Notably, nothing in the Code interferes with the authority of the Commission to impose standards on EGSs handling billing services, and in fact, the Code obligates to the Commission to do so if necessary to ensure continued adherence to the standards established by Chapter 56 of the Commission's regulations.

²⁴ 66 Pa.C.S. §§ 1401-1419.

²⁵ 66 Pa.C.S. §§ 2801-2815, which is the "Electricity Generation Customer Choice and Competition Act." ("Choice and Competition Act").

a. Express Legal Authority – Chapter 28

Code Section 2804(3) mandates the unbundling of generation, transmission and distribution and expressly authorizes the Commission to “require the unbundling of other services.”²⁶ In 1998, the Commission correctly viewed this language as providing authority to unbundle billing services so that customers could receive a consolidated bill from their EGS that includes the EDC charges.²⁷ The Commission reiterated this legal conclusion during the RMI when it found that a “competitive market with this choice of billing options [supplier consolidated billing, utility consolidated billing and dual billing] fully complies with the Competition Act’s requirement that customers have the right to choose their billing option.”²⁸ In addition, Code Section 2809(e) imposes a responsibility on EGSs providing billing services and other customer service functions to do so in full compliance with Chapter 56.²⁹ Moreover, Code Section 2803(12) expressly envisions the EDC continuing in its monopoly role only “for the transmission and distribution of electricity.”³⁰

Given the express authority that the Code bestows on the Commission to require further unbundling beyond generation, transmission and distribution services, and the fact that only

²⁶ 66 Pa. C.S. § 2804(3). Beyond generation, transmission and distribution, the Coalition is hard-pressed to think of any other services that could potentially be unbundled other than billing and metering. Indeed, the Commission has recognized in the natural gas industry that Code Section 2203(3) allows the Commission to address unbundling of other services, specifically referring to billing or metering. See <http://www.puc.pa.gov/PcDocs/570097.pdf> (Report at 69). 66 Pa. C.S. § 2203(3).

²⁷ See *Application of Duquesne Light Co.*, Docket No. R-00974104 (Order entered May 21, 1998), at 256 (Commission noted its ability to unbundle billing services).

²⁸ *Investigation of Pennsylvania’s Retail Electricity Market*, Docket No. I-2011-2237952 (Order entered November 8, 2012) (“*End State Tentative Order*”) at 28.

²⁹ 66 Pa. C.S. § 2809(e).

³⁰ 66 Pa. C.S. § 2803(12).

transmission and distribution services have been reserved for monopoly status, Chapter 28 clearly authorizes the Commission to direct the unbundling of billing services. Notably, billing services were not excluded from the services that may be unbundled, and therefore, it would be unreasonable to read such a limitation into Code Section 2807(c), which emphasizes the ability of the customer to choose his or her billing option.

b. Implied Legal Authority – Chapters 5 and 28

Even to the extent that the Commission finds that it needs more authority than the express authorization in Code Section 2804(3) to require further unbundling of services, it may rely on implicit authority. It is well-settled that the Commission’s authority arises from both the express words of the pertinent statutes or by the strong and necessary implication therefrom.³¹ The Commission has frequently relied on its plenary authority under Code Section 501 to find that it has implicit power to take certain actions.³² Code Section 501 provides: “The commission shall have general administrative power and authority to supervise and regulate all public utilities doing business within this Commonwealth.”³³ In case law reviewing questions of whether the Commission has implicit authority, courts have read this language in light of the enumerated powers set forth in the Code and in conjunction with the purposes of the Commission to implement and enforce the Code.³⁴

³¹ See *City of Phila. v. Phila. Elec. Co.*, 473 A.2d 997, 999-1000 (Pa. 1984).

³² See, e.g., *Commonwealth of Pa., et al. v. IDT Energy, Inc.*, Docket No. C-2014-2427657 (Order entered December 18, 2014), at 17-18 (“*IDT Interlocutory Order*”).

³³ 66 Pa. C.S. § 501(b).

³⁴ *United Telephone Co. of Pennsylvania v. Pennsylvania Pub. Util. Comm’n*, 676 A.2d 1244 (Pa. Cmwlt. 1996); *Fairview Water Co. v. Pa. PUC*, 502 A.2d 162, 509 Pa. 384 (1985).

Specifically, in *ARIPPA v. Pa. Pub. Util. Comm'n*,³⁵ the Commonwealth Court applied this test to the question of whether the Commission has the authority to determine ownership of alternative energy credits. Finding that the Commission has such implicit authority, the Court noted the Commission's extensive oversight over alternative energy credits, as well as the particular expertise of the Commission. Similarly, in the *IDT Interlocutory Order*, the Commission relied on its plenary authority under Code Section 501, coupled with its authority to implement the Choice and Competition Act, to find that it was authorized to direct EGSs to issue refunds to customers.

Here, the Choice and Competition Act provides a strong and necessary implication authorizing the Commission to order SCB implementation. Code Section 2804(3) empowers the Commission to require the further unbundling of services, beyond distribution, transmission and generation, and does not exempt billing services. Also, under Code Section 2802(16), the Commission has statutory authority to permit an EGS to serve in the default service role, which would include the provision of consolidated billing services.³⁶ In addition, Code Section 2809(e) imposes Chapter 56 requirements on EGSs performing billing services. Further, the Choice and Competition Act confers extensive powers on the Commission to handle all matters relating to the implementation of electric choice.³⁷ As SCB would improve the functioning of the competitive market that the Commission was charged by the General Assembly to develop and monitor, the

³⁵ 966 A.2d 1204 (2009).

³⁶ 66 Pa. C.S. § 2802(16).

³⁷ *See* 66 Pa. C.S. §§ 2801-2812.

Commission has correctly determined that it has the statutory authority to direct its implementation and should affirm that conclusion in this proceeding.

c. Section 2807(c) – Billing Services

Code Section 2807(c) in the Choice and Competition Act establishes obligations that the Commission may impose on EDCs. Among those obligations, if directed by the Commission, is the duty to provide consolidated billing. However, it does not mandate that only EDCs may be provide consolidated billing services or restrict the ability of the Commission to permit EGSs to also provide such services. Specifically, by providing that an EDC “*may* be responsible for billing customers for all electric services, consistent with the regulations of the commission,”³⁸ Code Section 2807(c) ensures that customers always have the option of getting one consolidated bill and gives the Commission the discretion to impose that obligation on EDCs. To the extent that this option is not available in the retail market or elsewhere, the Commission is authorized by Code Section 2807(c) to require the EDC to continue performing this function. Indeed, in 1998, the Commission concluded that while Code Section 2807(c) “expressly provides for an EDC to issue a single bill,” it disagreed “that there is a presumption that it is the EDC who has a duty to issue a bill” and found that “there is nothing in the Act that would prohibit the supplier single bill options.”³⁹

When the EDCs argued in 1997 that the Code Section 2804(3) authorization for further unbundling was not sufficient to override the language in the Choice and Competition Act for consolidated billing functions to remain with the EDC, the Commission stated:

³⁸ 66 Pa. C.S. § 2807(c) (emphasis added).

³⁹ *Application of Pennsylvania Power & Light Company for Approval of Restructuring Plan under Section 2806*, Docket No. R-00973954 (Order entered June 15, 1998), 1998 Pa. PUC LEXIS 131, *174.

Regarding the legal interpretational issues raised in comments about this guideline, we simply disagree with the conclusions reached that only EDCs can provide these customer service functions. We submit that there is nothing in the Act that would prohibit the supplier single bill option and supplier complaint handling. Although § 2807(C) recognizes that the EDC “may be” responsible for the billing of all electric services, there is nothing in this passive provision or anywhere else in the Act that makes the EDCs the exclusive providers of these customer service functions.⁴⁰

Importantly, as the Commission has already found, nothing in Code Section 2807(c) limits the Commission’s ability to permit consumers to choose to receive consolidated bills from their EGSs. Indeed, nothing about the language in Code Section 2807(c) suggests that the Commission may only authorize UCB and dual bills; it only assures that consumers will have the option to select UCB or to be separately billed by their EGS. Particularly in view of the language in Code Section 2804(3) that authorizes further unbundling of services beyond distribution, transmission and generation, it would be unreasonable to read such a limitation into Code Section 2807(c). Moreover, Code Section 2804(3) does not exempt any EDC services from being unbundled. If the General Assembly had intended to exclude billing from the services that the Commission may require to be unbundled, it would have inserted the words “except billing” in the language authorizing the Commission to unbundle other services.

d. Section 2807(d) – Customer Service Functions

Similarly, nothing in Code Section 2807(d) limits the ability of EGSs to handle customer service functions. Code Section 2807(d) simply provides that the EDC “shall continue to provide customer service functions consistent with the regulations of the commission.”⁴¹ Although Code

⁴⁰ *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*”).

⁴¹ 66 Pa. C.S. § 2807(d).

Section 2807(d) obligates EDCs to perform these functions, as directed by the Commission, it does not give EDCs the *exclusive* responsibility of providing customer services. Indeed, EGSs are already handling these services for their supply customers. Under the UCB model, EGSs handle bill inquiries, complaint resolution and customer service functions related to their supply charges. In addition, EGSs who are issuing dual bills manage these responsibilities.

When the EDCs previously relied on the language in Code Section 2807(d) to contend that customer service functions had to remain with the EDC, the Commission correctly concluded as follows:

We believe that the Act's reference to the EDC's responsibility to provide customer service functions under § 2807(D) is intended to maintain the status quo and is merely a reflection that the EDC must stand ready to provide these customers service functions. However, concerning the two specific customer service functions at issue; namely, billing and complaint resolution, we do not read this provision or any other provision of the Act as excluding suppliers from providing these functions. In fact, we believe that this interpretation is consistent with the declared policy of the Act to create a competitive market for the generation of electricity.⁴²

By imposing this customer service obligation on EDCs, the express purpose of Code Section 2807(d) is to ensure that customer services are maintained at the same level of quality under competition. Nothing suggests that only the EDC can provide customer service functions at that level. As proposed by Coalition, the participating EGSs would be complying with the Commission's regulations, so the purpose of this requirement has been satisfied. In fact, as part of the current EGS licensing process, an EGS must complete an affidavit acknowledging that "it has a statutory obligation to conform with 66 Pa. C.S. §§ 506, 2807(D)(2), 2809(B) and the

⁴² *Customer Services Order* at *23.

standards and billing practices of 52 Pa. Code Chapter 56."⁴³ To the extent that other action is necessary to ensure that the customer protections and the present quality of service continue, the Commission is authorized to impose additional obligations on EGSs providing SCB when necessary to maintain compliance with Chapter 56.⁴⁴

e. Chapter 14

The Commission's *SCB Order* contains an extensive discussion about Chapter 14, suggesting that it creates barriers or challenges to implementing SCB and describing it as providing "protection to consumers related to billing and payment issues, including termination of service."⁴⁵ Noting that the Chapter 14 provisions are applicable specifically to public utilities, the Commission questioned how they could be enforced against EGSs within the context of SCB.

The short answer is that nothing in Chapter 14 of the Public Utility Code interferes with the Commission's express and implied authority under Chapters 5 and 28 of the Code to implement SCB. Further, as discussed above, the Commission is authorized to impose any requirements on EGSs that are necessary to ensure adherence to Chapter 56 or that the Commission deems

⁴³ Electric Generation Supplier (EGS) Application, Appendix B, which is available at: http://www.puc.state.pa.us/general/onlineforms/doc/EGS_Lic_App.doc.

⁴⁴ 66 Pa.C.S. § 2809(e) ("In regulating the service of electric generation suppliers, the commission shall impose requirements necessary to ensure that the present quality of service provided by electric utilities does not deteriorate, including assuring that adequate reserve margins of electric supply are maintained and assuring that 52 Pa. Code Ch. 56 (relating to standards and billing practices for residential utility service) are maintained."). *See also* 66 Pa.C.S. § 2802(14) (EGSs must comply with such other requirements concerning service as the commission deems necessary for the protection of the public).

⁴⁵ *SCB Order* at 32.

necessary for the protection of the public.⁴⁶ Alternatively, the Commission can require compliance with the provisions of Chapter 14 as a condition of being licensed as a supplier offering SCB.

As part of this discussion, it is important to review the reasons for which Chapter 14 was originally enacted in 2004. The General Assembly's express purpose in passing Chapter 14 was to protect responsible – or paying – customers.⁴⁷ At that time, the Commission already had consumer protections in place dating back to 1978. Through enacting Chapter 14, the General Assembly stepped in to revisit those rules; to provide protections against rate increases for timely paying customers resulting from other customers' delinquencies; and to eliminate opportunities for customers capable of paying to avoid the timely payment of public utility bills.⁴⁸ Rather than bestowing new protections on non-paying customers, Chapter 14 provided public utilities with the tools they needed to reduce their uncollectible accounts and gave the Commission less discretion than it previously had to interfere with those efforts. In short, Chapter 14 gave public utilities an enhanced ability to terminate customers for non-payment.⁴⁹ To now view Chapter 14 as a barrier to SCB implementation overlooks the whole purpose of its enactment.

By enabling public utilities to conduct reasonable collection activities, Chapter 14 does not present any barriers to the implementation of SCB. The standards that it sets forth relating to payment arrangements, termination and reconnection are designed to appropriately balance

⁴⁶ 66 Pa.C.S. §§ 2809(e); 2802(14).

⁴⁷ 66 Pa.C.S. § 1401.

⁴⁸ 66 Pa.C.S. § 1402(2).

⁴⁹ *See Rulemaking to Amend the Provisions of 52 Pa. Code, Chapter 56 to Comply with the Provisions of 66 Pa.C.S., Chapter 14; General Review of Regulations, Docket No. L-00060182 (Revised Order entered June 13, 2011) (“Chapter 14 Rulemaking Order”).*

consumer protections with the need for billing entities to collect amounts due from customers who are capable of paying their bills. In offering SCB, the Coalition is prepared to comply with each and every provision of Chapter 14 and fully expects the Commission to exercise its statutory authority to impose these standards on EGSs performing SCB. Notably, SCB is consistent with the overarching goal of Chapter 14 in that it would reduce the uncollectible levels of the EDCs. Through the Coalition’s proposed POR program, where EGSs would fully purchase their receivables without discount and without recourse, EGSs would be managing that bad debt rather than the utilities.

f. Purchase of Receivables Program

In the Secretarial Letter, the Commission asks whether a POR program where the EGS purchases the EDC’s receivables would be permitted under the Code and Commission regulations. If the Commission would find that the purchase of an EDC’s receivables by an EGS performing SCB is necessary to protect the public, it has statutory authority to impose such a requirement. Alternatively, it may require EGSs offering SCB to implement POR programs as a condition of participation.

EDCs could not be mandated to offer POR programs because Section 2807(c)(3) expressly provides that an EDC “shall not be required to forward payment to entities providing services to customers, and on whose behalf the electric distribution company is billing those customers, before the electric distribution company has received payment for those services from customers.”⁵⁰ This provision was intended to protect EDCs from being required by the Commission to both offer UCB and a POR program.

⁵⁰ 66 Pa.C.S. § 2807(c)(3).

The same situation does not exist with EGSs. No similar provision in Chapter 28 precludes the Commission from requiring EGSs to implement POR programs if they are providing consolidated billing services. To the contrary, the Commission is authorized by Code Section 2802(14) to mandate EGS compliance with any requirements deemed “necessary for the protection of the public.”⁵¹ Therefore, to the extent that the Commission finds that it is necessary for the protection of the public for EDCs’ receivables to be fully purchased by EGSs performing consolidated billing services, it has the authority to do so. Moreover, in the same way that EDCs have voluntarily implemented POR programs, it would essentially be voluntary for EGS to implement POR programs as a condition of providing SCB.

2. Procedural Avenues

The Secretarial Letter solicits comments as to the preferred procedural methods for further exploring SCB implementation if the Commission decides to do so. Upon confirming that the Commission has the statutory authority under Chapter 28 to implement SCB, that Chapter 14 presents no obstacles to SCB implementation and that it may authorize POR programs for EGSs desiring to offer SCB, the Commission should launch the processes that are needed to implement SCB by a date certain. A number of vehicles exist through which the Commission may address the details that are critical to effective SCB implementation, including comments, stakeholder workshops, the pending Chapter 56 rulemaking, interim guidelines, new regulations, tariff provisions and EDC/EGS agreements.

In initiating these processes, it is critical that the Commission giving clear policy guidance as to its expectations to staff and stakeholders so that productive discussions can occur and the

⁵¹ 66 Pa.C.S. § 2802(14).

details necessary to ensure a successful implementation are efficiently and effectively addressed. The Coalition observes that when the Commission was focused several years ago on taking measures that would “move the needle” and secure Pennsylvania’s status as a natural leader for retail markets, the utilities responded in kind. For instance, in comments filed in 2012, PECO Energy Company expressed strong support for competitive electricity markets to deliver choice, innovation and value for all sizes of customers and expressly endorsed SCB as a vital component of the retail market.⁵² Similarly, PPL commented in 2012 that a fundamental principle of a competitive generation market is the belief that markets will find more innovative solutions than regulation.⁵³ If the Commission does not strongly convey its commitment to SCB implementation and its support for the essential key parameters of SCB to the stakeholders, the Coalition is concerned that the process will become bogged down by ideological debates. The conveyance of clear policy signals by the Commission is imperative to reaching the end goal of implementing SCB in a way that takes Pennsylvania’s competitive retail market to the next level and delivers the long-awaited wide array of innovative product and service offerings.

While a variety of procedural methods exist, as noted above, which the Commission could effectively employ to further explore the implementation of SCB, one path forward that the Coalition has identified would begin with the issuance of an order by the Commission, which:

- Announces that SCB will be available as an option for EGS customers in all EDC territories by a date certain;
- Sets forth clear policy guidance on the appropriate framework for SCB, as proposed by the EGS SCB Coalition;

⁵² PECO Comments to *End State Tentative Order* filed on December 10, 2012.

⁵³ PPL Comments to *End State Tentative Order* filed on December 10, 2012.

- Addresses various operational issues impacting SCB, consistent with the Coalition’s comments;
- Provides direction regarding cost recovery;
- Directs the development of necessary EDI protocols;
- Forms a SCB Stakeholder Work Group led by the Office of Competitive Market Oversight (“OCMO”); and
- Establishes target dates for each key milestone needed for SCB implementation.

Following the work of the SCB Stakeholder Work Group, the Coalition envisions the submission of EDI protocols by EDEWG and a Report by the SCB Stakeholder Work Group facilitated by OCMO, which:

- Develops model supplier tariff language;
- Develops a model agreement between EGSs and EDCs relating to SCB;
- Identifies Commission regulations that may be impacted by SCB and proposes revisions, waivers and interim guidelines that may be necessary;
- Recommends the additional financial security and technical requirements that should be imposed on EGSs offering SCB;
- Addresses consumer education;
- Describes the components of each EDC’s compliance filing; and
- Establishes a certification and compliance process for EGSs offering SCB.

As proposed by the Coalition, the Commission would then issue an Implementation Order, which approves or otherwise resolves all issues addressed by the SCB Stakeholder Work Group Report; approves, with or without modification, the EDI protocols submitted by EDEWG; and directs the filing of compliance plans by the EDCs. Thereafter, the Commission would approve the EDC’s compliance filings and oversee the implementation of SCB.

3. Impact on Retail Electric Market

a. Effect on Market

i. Introduction

By its Secretarial Letter, the Commission seeks comments on how implementation of SCB would affect Pennsylvania’s retail electric market. Simply stated, implementation of SCB in Pennsylvania would be a game-changer, propelling retail electric competition to the next level as envisioned by the General Assembly in 1996 when Pennsylvania emerged as a national leader in promoting the development of the electric retail market. Moreover, adding SCB to the available electric service billing options would support the Commission’s goals of enhancing product offerings to consumers and encouraging long-term investments by EGSs within Pennsylvania.⁵⁴ The Coalition stands ready to invest in Pennsylvania’s retail electric market if EGSs have the same ability that EDCs already have to send consolidated bills to their customers.

Enabling the supplier of the competitive product or service to enjoy a direct relationship that allows for monthly communication, through which the EGS can build trust with the customer and demonstrate its proficiency at meeting the customer’s needs, is critical in moving toward a robust market. The result is that customers are more satisfied because EGSs are meeting their expectations.⁵⁵ Because of the trust that evolves and the additional information EGSs learn about their customers, they can design products that appeal to those customers. Indeed, with the way in which SCB would spark innovation, EGSs would have opportunities to attract customers who have not previously had an interest in shopping.

⁵⁴ *End State Final Order* at 24.

⁵⁵ Customers expect their commodity providers to be able to bill them for the products they are choosing. When suppliers are unable to do so, it gives the customer the impression that the EGS are incompetent, as opposed to being restricted by an outdated regulatory framework.

ii. Commission's Goals for Competitive Market

In launching the electric RMI in 2011, the Commission observed that the Commonwealth emerged as a national leader in electricity policy in 1996 when the Choice and Competition Act was enacted.⁵⁶ The stated purpose of the RMI was to ensure that a properly functioning and workable competitive retail electricity market exists in the Commonwealth. These sentiments are aligned with many provisions in the Choice and Competition Act, which make it clear that not only did the General Assembly expect customers to have a choice of their EGS, but also that the end state was to be a “competitive” market.⁵⁷

In the *RMI Launch Order*, the Commission expressed its continued commitment to the General Assembly's goals in passing the Choice and Competition Act and noted that “one of the great challenges for regulators is remaining fully informed and current with the industries and markets” under its oversight.⁵⁸ The Commission specifically sought to “explore what changes need to be made to allow customers to best realize the benefits of competition,” emphasizing the importance of customers having the ability to choose electricity products and services tailored to their individual needs.⁵⁹ After a review of the comments filed in response to the *RMI Launch Order*, the Commission issued an order concluding that “the current paradigm contains both

⁵⁶ *Investigation of Pennsylvania's Retail Electricity Market*, Docket No. I-2011-2237952 (Order entered April 29, 2011) (“*RMI Launch Order*”).

⁵⁷ *See, e.g.*, 66 Pa.C.S. § 2802(3); (citing advancements in technology, it is in the public interest “to permit retail customers to obtain direct access to a *competitive* generation market”) (emphasis added); 66 Pa.C.S. § 2802(7) (“Commonwealth must begin the transition from regulation to greater competition”); 66 Pa.C.S. § 2802(12) (purpose of chapter is to create direct access by retail customers to the competitive market); 66 Pa.C.S. § 2804(2) (consumers should be able to choose among EGSs in a competitive market).

⁵⁸ *Id.* at 2.

⁵⁹ *Id.*

structural and operational impediments to a fully functioning, robust competitive retail marketplace.”⁶⁰ The Commission, therefore, found that it “must examine changes to Pennsylvania’s retail electric market in order to improve the competitive landscape.”⁶¹

Although the changes that the Commission has made as part of the RMI have improved the overall functionality of the market through easing the enrollment process and increasing customer education, the vast majority of electric customers in Pennsylvania are still taking default service from their EDC. Perhaps that is due in large part to the shortage of innovative product offerings that would make it worthwhile for customers to shop. As the Commission found in 2011, it should again today reach “the inescapable conclusion that Pennsylvania’s current retail market requires changes in order to bring about the robust competitive market envisioned by the General Assembly” when it passed the Competition Act.⁶²

iii. Commission’s Recognition of Role of SCB

Specifically with respect to the role of SCB in a fully-functioning competitive market, the Commission has long recognized its importance, expressly concluding “that SCB should be made available as a billing option as part of a vibrant, competitive market.”⁶³ Specifically, the Commission has agreed with suppliers “that SCB can help EGSs establish a more robust, familiar relationship with a customer.”⁶⁴ The Commission has also correctly observed that “[r]emoving

⁶⁰ *Investigation of Pennsylvania’s Retail Electricity Market*, Docket No. I-2011-2237952 (Order entered July 28, 2011) (“*RMI Launch Order IP*”), at 4.

⁶¹ *Id.*

⁶² *Id.*

⁶³ *End State Tentative Order* at 27.

⁶⁴ *Id.*

the utility from the billing function and presenting the customer with a single bill from the supplier will help establish the supplier’s identity with the customer.”⁶⁵ Notably, the Commission has specifically identified the inability of EGSs to issue consolidated bills to customers as a factor making “the relationship between the EGS and the customer tenuous at best,”⁶⁶ which is a barrier to developing a fully competitive market. Recognizing that this “dynamic can result in customer confusion and hesitancy among EGSs to invest more resources in the Commonwealth,” the Commission has concluded that customer confusion and reluctance by EGSs to invest in the market most certainly does not foster a robust competition.⁶⁷ The Commission has unequivocally stated that “SCB will facilitate the offering of innovative new products and services and will also help the supplier in establishing a brand identity with the customer.”⁶⁸

The time to implement SCB and take Pennsylvania’s retail market to the next level is now. Although the Commission has expressly recognized the importance of SCB for the continued growth of the electric retail market and confirmed its legal authority to implement SCB, it has previously declined to move forward due to other pressing matters, which have since been fully addressed.

iv. The Need for EGS-Customer Relationship

Customer relationships are essential. Having a strong relationship and brand recognition with customers enables a business to grow and thrive and improves customer

⁶⁵ *Id.*

⁶⁶ *Id.* at 9.

⁶⁷ *Id.*

⁶⁸ *End State Final Order* at 66-67.

satisfaction with the services they receive. Bills are the vehicle for EGSs to form relationships with their customers. Billing customers directly through SCB enables suppliers to have a monthly touch point with customers, demonstrate their proficiency at meeting customer's needs, increase their visibility with customers and be more fully accountable to their customers. Customers expect to be billed by, and pay, the provider of the goods and services they consume. Customers also demand simplicity – they want a single bill for all of their energy services. Through the ability to send consolidated bills that include charges for all electric services, EGSs fulfill these expectations. Notably, in a UCB environment, not only are EGSs failing to meet these expectations, they are often the subject of complaints filed by customers alleging that they were slammed many years after they affirmatively selected the supplier.⁶⁹ It is not a wonder that that this occurs given the fact that the customer enrolls and then receives no bill from the EGS – no monthly reminder of the transaction or the relationship, such as it is. Indeed, customers routinely allege that they could not have selected the supplier since they never received a bill from the EGS.

The effectiveness of this monthly channel for establishing direct and long-term relationships with customers cannot be overstated. By providing a direct billing relationship between EGSs and their customers, SCB would enable EGSs to establish trust and loyalty with those customers and be perceived as their “energy company.” The supplier-customer relationship would grow as the supplier consistently provides timely and accurate bills, properly processes customer payments and diligently handles the customer's inquiries. With this trust that develops, suppliers are able to better educate their customers about other beneficial products and services,

⁶⁹ See, e.g., *TMAE, Inc. t/a Trio Cold Cuts v. Viridian Energy Pennsylvania LLC*, Docket No. C-2017-2588914) (Answer to Motion for Judgment on the Pleadings filed May 1, 2017).

field customer inquiries about their electricity usage, and offer alternatives that lower customers' overall consumption and costs.

Customer relationships lead to innovation. Having a direct relationship with their customers allows EGSs to build trusting, long-term bonds, which in turn helps EGSs better understand what their customers want and deliver products and services to meet those desires. Even having access to the billing data itself – how soon the customer pays, what payment method the customer uses, whether the customer pays in a lump sum or through installments – gives EGSs insights as to what is important to their customers, enabling them to develop products and services that respond to those priorities.

v. The Importance of Innovation

Fully-functioning competitive markets are not only about price. Indeed, their real value is in the innovation they create. The 2015 Annual Baseline Assessment of Choice in Canada and the United States Report (“ABACCUS Report”), which is intended to help policy makers assess their progress in establishing conditions that will facilitate robust retail electric competition, found that “[t]oo many electric industry stakeholders have a habit of describing the industry in terms of the electric commodity.”⁷⁰ Noting that such language is limiting and detrimental to reform, the ABACCUS Report observed that “[c]onsumer-driven innovation and product determination should be the goal of electricity restructuring. Innovation and product differentiation will market the shift from pure commodity sales to a vibrant retail energy services market.”⁷¹ Retail suppliers “are very sensitive to what makes a consumer want to switch to a new provider, as are all

⁷⁰ <http://defglc.com/publication/abaccus-2015-annual-baseline-assessment-of-choice-in-canada-and-the-united-states/> ABACCUS Report at 11 and 24.

⁷¹ *Id.* at 4.

competitors. Once [retail suppliers] have acquired a customer, they are also focused on how to keep that customer satisfied. As product offerings continue to diversify, new customer segments will be identified, and the customer sorting and product specialization will continue.”⁷² In other words, product differentiation and specialization matter to customers, and competition demands that market participants build relationships with customers and continually offer innovative products to meet customers’ needs. Below is an excerpt from the ABACCUS Report showing how markets develop over time:

The process of electric market transformation can be viewed as a three-stage evolution that begins with a change from regulation of electric utilities to a platform that encourages competition among market participants. The nature of the competition begins simply and becomes more sophisticated.

Figure ES-4



Supportive billing options” are specifically identified by the ABACCUS Report as a basic component of workable retail electric competition.⁷³ The Report made perfectly clear the importance of SCB to the market and innovation:

In the jurisdictions where electricity is treated as a commodity, the regulated utility often maintains the primary role as billing agent, and the competitive portion – the electric commodity – appears as a line item on electric bill. There is relatively little opportunity for the competitive provider to use the billing transaction as a means to communicate information, engage consumers or provide new services. If only the commodity portion of the bill is competitive, then other services and charges – for metering service, distribution service, and certain value-added services – remains

⁷² *Id.*

⁷³ *Id.* at 10.

regulated. This limits the ability of the retail energy provider to innovate, bundle services or discount the cost of regulated services.⁷⁴

The Commission has long recognized the importance of a wide variety of products and services being offered to consumers in a vibrant competitive market. In initially launching the electric RMI in 2011, the Commission questioned whether the current market structure prevents customers from choosing electricity products and services that are tailored to their individual needs.⁷⁵ The Commission also observed during that investigation that innovative products are being offered to retail customers in Texas that are not available in Pennsylvania.⁷⁶ Through the electric RMI, the Commission sought to create a structure where consumers enjoy competitive prices and a wide variety of innovative product offerings.⁷⁷ Yet, it was noted at the conclusion of that investigation that to date, not enough innovative products have emerged that may be attractive to consumers.⁷⁸ When the Commission implemented a web portal for usage data in 2015, it recognized the need for the accessibility of this data in order for the electric retail market to develop innovative products.⁷⁹

Testifying before the Pennsylvania House Appropriations Committee on February 24, 2016, Chairman Brown noted that services for Pennsylvania energy consumers can be enhanced

⁷⁴ *Id.* at 174-175.

⁷⁵ *RMI Launch Order I* at 3.

⁷⁶ *RMI Launch Order II* at 7.

⁷⁷ *End State Final Order* at 15.

⁷⁸ Joint Statement accompanying *End State Final Order*.

⁷⁹ *Electronic Data Exchange Working Group's Web Portal Working Group's Solution Framework for Historical Interval Usage and Billing Quality Interval Use*, Docket No. M-2009-2092655 (Order entered September 3, 2015), at 10.

through innovative developments in the marketplace.⁸⁰ In a letter applauding the Commission for the “visionary work it has done and continues to do in promoting retail electric competition within the Commonwealth,” the Pennsylvania Senate Democratic Policy Committee Chair offered support for electric consumers having access “to new and innovative products and services which may assist them in managing their energy usage.”⁸¹

A decade ago, the Commission issued a report finding that a presence of sellers offering buyers a variety of products and services is a sign of a truly competitive market.⁸² Through that report, the Commission referred to other entities, including the Energy Information Administration, which have found that a variety of product options is an important component of a competitive market.⁸³ At that time, the Commission concluded that customer participation in the market will increase only if there are more suppliers offering a variety of products.⁸⁴ Likewise, in 2013, the Commission stressed the importance of ensuring “that customers have opportunities to realize the advantages of a robust and effective competitive market.”⁸⁵ Indeed, the standard to which the Commission is held by Code Section 2203(3) in determining whether to further

⁸⁰ http://www.puc.pa.gov/General/pdf/Testimony/Brown-House_Budget_022416.pdf

⁸¹ <http://www.puc.pa.gov/pcdocs/1450734.pdf>

⁸² <http://www.puc.pa.gov/PcDocs/570097.pdf> (Report at 1, 25). See also *Investigation into the Natural Gas Supply Market: Report on Stakeholders Working Group (SEARCH); Action Plan for Increasing Effective Competition*, Docket No. I-00040103F0002 (Order entered September 11, 2008) (“*SEARCH Order*”) at 2, 33.

⁸³ *SEARCH Order* at 23-24.

⁸⁴ *SEARCH Order* at 6.

⁸⁵ *Investigation of Pennsylvania’s Retail Natural Gas Supply Market*, Docket No. I-2013-2381742 (Order entered September 12, 2013), at 2.

unbundle services such as billing includes a review of “the potential for unbundling to offer savings, new products and additional choices or services” for retail customers.⁸⁶

As to the role of SCB in promoting innovation, the Commission has expressly touted this tool as facilitating the offering of new products and services.⁸⁷ More recently, in the Joint Motion adopted on January 18, 2018, the Commission recognized the importance of SCB in capitalizing on the investments that have been made to bring smart meters to Pennsylvania. Specifically, the Commission acknowledged that the “advent of smart meters brings many potential benefits that would be greater utilized with corresponding upgrades to equipment within houses and businesses.”⁸⁸ Noting that the “competitive market makes EGSs well situated to have the expertise and incentive to provide such upgrades in order to best utilize the capabilities of smart meters,” the Commission pointed to the reality that “EGSs are hampered by the fact that charging for EGS value-added services is effectively limited to dual billing.”⁸⁹

The Commission has made great strides in the deployment of smart meters throughout the Commonwealth and has established data sharing protocols that allow EGSs to access this information for their customers. For EGSs to be able to effectively use that data and develop products that are tailored to meet the needs of individual customers, it is imperative that they have the ability to bill customers for those products. With the only options for billing customers being UCB or a separate bill, neither of which effectively enables EGSs to show the charges for

⁸⁶ 66 Pa.C.S. § 2203(3).

⁸⁷ *End State Final Order* at 66-67.

⁸⁸ SCB Joint Motion at 2.

⁸⁹ *Id.*

innovative products and services, SCB is the only path forward for ensuring that Pennsylvania realizes the full potential of smart meter investment and the data that is being made available to EGSs because of that technology.

vi. Correcting Serious Deficiencies in the Market

Besides enabling EGSs to forge direct and long-term relationships with their customers, promoting investment by EGSs in the market and encouraging innovative product offerings, SCB would also correct serious deficiencies in the market today due to the EDCs having a monopoly hold on providing consolidated billing services. Despite twenty years of strong Commission support for electric choice, the EDCs in Pennsylvania have maintained their dominant position in Pennsylvania's retail market. Providing default supply service to about two-thirds of their distribution customers, the EDCs capitalize on their monopoly status of being the only consolidated billing entity by portraying themselves to consumers as "the energy company." Casting themselves in this light, the EDCs have perpetuated brand loyalty and provided a platform to sell other products and services to customers, such as electrical wiring, landscaping and other services unrelated to their functions as delivery companies.

For example, FirstEnergy Companies' May 2018 bills include inserts promoting a surge assist protection program. Starting at \$5.59 per month, customers can "get some peace of mind with a program that can repair or replace appliances and devices affected by a surge" or get reimbursed for surge-related expenses.⁹⁰ In April 2018, First Energy Companies marketed their "Smart-Mart" website through a bill insert advertising affordable payment plans for electrical

⁹⁰ <https://www.firstenergycorp.com/content/dam/customer/billinserts/8753-ConsumerProductsPASurgeAssist0518.pdf>

services for simple repairs, inspections and installations to major rewiring projects.⁹¹ A review of the Smart-Mart website reveals that the FirstEnergy Companies are offering electric vehicle charger leases, connected home plans, landscaping and lighting and more – all for convenient monthly payment options.⁹²

Although not directly related to billing charges, utilities across the Commonwealth use the monthly billing channel to build their brand to customers. For example, PECO Energy Company recently announced a partnership with the Arbor Day Foundation, under which it offered free trees to customers to conserve energy.⁹³ PPL Electric Utilities used its monthly bill in April 2018 to let its distribution customers know about an engineer who volunteers to help impoverished communities in Sierra Leone.⁹⁴ Duquesne also took advantage of its monthly newsletter to promote its electric vehicle initiative and other community involvement.⁹⁵ However, in Pennsylvania, only the EDCs can use this channel. Although EGSs are equally as active in the community and with charitable causes, they are relegated to sending their own separate correspondence (which is likely to be viewed by customers as “junk” mail and discarded), and are denied the ability to use a consolidated energy bill to forge that relationship and build brand loyalty with their customers.

91 <https://www.firstenergycorp.com/content/dam/customer/billinserts/8722-PaConsumerProductsElectricalServices0418.pdf>

92 https://www.smart-mart.com/smartmart/en/for_home/home_product_details

93 <https://www.peco.com/SiteCollectionDocuments/PECOENERGYATHOMEELECTRICONLY.pdf>

94 <https://www.pplelectric.com/-/media/PPLElectric/About-Us/Docs/connect-newsletter/2018/Connect-201804.pdf?la=en>

95 https://www.duquesnelight.com/docs/default-source/pdf-library/service-line-winter-2017.pdf?sfvrsn=9936a242_0

While the Coalition is not seeking to preclude EDCs from performing consolidated billing services for non-shopping customers or for customers served by EGSs that do not offer SCB, the Coalition is seeking to put a stop to the EDCs' continued use of its monopoly status as the only consolidated billing entity, as well as their attempts to expand their service and product offerings beyond their core functions of delivering electricity to homes and businesses. For EDCs to use their utility bill to sell these additional products and services to consumers and to strengthen their relationships with their customers, while EGSs have no ability to send a consolidated bill, is a serious deficiency in the market that SCB can begin to rectify. The way that the EDCs use their monthly bills also demonstrates the branding benefits they see flowing from their direct billing relationship with customers, which in a truly competitive retail market needs to be available to EGSs.

b. Benefits to Consumers

i. Introduction

When EGSs are able to truly compete, consumers benefit from more competitive prices, innovative product offerings and better customer service. Pennsylvania's retail electric consumers would benefit from SCB. Customers would gain access to more innovative products and services, including the enhanced ability to utilize tools that enable them to budget their energy dollars more effectively. Customers would also be able to receive valuable information about their energy usage through state of the art billing systems used by EGSs, as well as more customer friendly bills that are simpler and easier to understand. Enabling a direct relationship between EGSs and their customers would enhance the overall shopping experience and customer satisfaction would be greatly improved.

ii. New and Innovative Product and Service Offerings

The opportunity to create and maintain a direct, ongoing relationship with their customers allows suppliers to provide unique products and services tailored to meet individual needs. With SCB, suppliers can use state of the art billing platforms to provide sophisticated, easy-to-understand information to customers about their energy usage and usage patterns. These platforms can also be used to bill additional products or services and to provide a single and more simplified summary bill for such combined services.

The implementation of SCB would allow customers to benefit from existing and emerging tools that are designed to help them be smarter energy consumers. Such tools enable consumers to better manage their energy consumption and reduce their electric costs. For instance, SCB would permit consumers to enroll in prepaid plans offered by suppliers.⁹⁶ Such plans are very similar to how many mobile phone plans are structured and are growing in popularity in Texas where EGSs perform all billing and collection services. With prepaid plans, the customer decides how much they want to spend and the EGS lets the customer know when the balance is running low. These plans are proving very useful to consumers who are focused on managing their energy budget because they allow low-income customers to obtain service without posting a customer deposit. SCB would also enable EGSs to offer flat bill plans that allow the customer to have complete control of their energy bill.⁹⁷ Flat bill products offered in Texas permit customers to

⁹⁶ The Coalition expects that the Commission would establish rules governing the offering of such products. For example, in Texas, suppliers must notify the PUCT if they wish to offer prepaid plans.

⁹⁷ Whether current rules permit such a product to be offered by EGSs should not interfere with a discussion of the products that SCB enables and customers may desire to choose. To the extent that such an offering would require new rules to be established, this is an issue that could be discussed among stakeholders with a recommendation being provided to the Commission.

enjoy budget certainty for both supply and delivery charges – an option that tens of thousands of customers are choosing.

Direct access to the customer through the electricity bill is part and parcel of an overall model that further enables EGSs that are eager to deliver these innovative new products, services and pricing plans to customers are currently stymied due to the inability of EGSs to bill for these products. SCB will ensure that customers in Pennsylvania realize the full value of their smart meter investment and will provide opportunities for consumers to enroll in competitive demand reduction and energy efficiency programs. Examples of specific innovative product offering that can be made available through SCB include time-of-use products, bundled services, and customized plans, each of which leverages real-time interval usage data that enables innovative apps for smartphones, optimizes meter functionality and empowers customers to learn more about energy usage and control their usage at pivotal times.

If EGSs are empowered to develop and deliver innovative product offerings, the possibilities are endless, and it is the consumers who will benefit. It is ultimately up to EGSs to determine what customers want from their energy suppliers and to bring those products and services to the market. Having the ability to form those essential customer relationships, gain the customer's trust and learn what customers want would give EGSs the opportunity to respond to those demands.

iii. Greater Customer Satisfaction

SCB will result in greater customer satisfaction. As participants in the competitive market, the Coalition is well aware of the fundamental importance of customer service and satisfaction. It is the Coalition's experience that having a direct relationship with the customer unequivocally impacts the customer's perceptions of the supplier and the services it provides. The Coalition

sees first-hand in Texas, Georgia, Alberta and the United Kingdom that customers believe that billing and payment services are just as important as price in driving customer satisfaction.

When there is no direct relationship between the EGS and customer, the billing and payment experience cannot be measured and price becomes the predominant factor driving customer satisfaction levels. This emphasis on price makes it all the more difficult for EGSs to establish themselves as legitimate, reliable businesses capable of offering customers a value proposition beyond price. While the Commission has recognized the importance of other value-added products and services and innovations in the market, the current reality is that the way the market is structured, price is the key driver of all shopping decisions, and a large portion of the residential customers are not participating in the market. Rather than creating a market where customers seek additional value and consider a variety of factors when considering whether to switch to an EGS, existing policies – including the inability of EGSs to offer SCB – have ensured that customers remain focused on price (and particularly the price charged by EDCs that does not accurately reflect market conditions) to the exclusion of all else.⁹⁸

An independent customer satisfaction study performed by JD Power shows that an EGS's ability to have a direct relationship with the customer unequivocally impacts the customer's perceptions of his or her EGS and plays an important role in determining the customer's satisfaction with that EGS and the services it provides. That direct relationship is established through the billing and payment services provided by the EGS. Based on research conducted in

⁹⁸ Affording EGSs the opportunity to offer and bill for value-added services would establish a framework that encourages non-shopping customers to consider whether such services provide a stronger motivation than price has in the past to participate in the retail market.

competitive electricity markets in Texas and the Northeast (including Pennsylvania), billing and payment services were found to be just as important as price in driving customer satisfaction.⁹⁹

Moreover, the same JD Power study showed that Texas electricity customers – all of whom have a direct relationship with their supplier – provide more positive assessments of their current suppliers versus Pennsylvania consumers for being: friendly, of good reputation, affordable, flexible and customer focused. And, Texas customers rate their suppliers higher than Pennsylvania customers who do not have a direct relationship with their supplier for being environmentally responsible and innovative.

iv. More Information for Purchasing Decisions

To maximize the benefits of a competitive market, consumers need more frequent and regular communications from their suppliers as they are making decisions about the products and services they should purchase. Absent frequent communication with the EGS via customer service, billing, etc., customers do not see or understand the competitive market because it is limited by artificial and unnecessary restrictions. When customers have more information upon which to base their purchasing decisions, the market is more likely to flourish as EGSs have inherent incentives to innovate or differentiate their product offerings. Naturally, consumers benefit from this wider array of choices.

Customers choose products and services for any number of reasons: price, renewable energy content, flexibility, brand name, expected service quality, and value-added products and services, to name a few. Only when the provider of the product and service has the opportunity to frequently access the customer to differentiate what they are offering from a competitor's products

⁹⁹ *JD Power 2015 Retail Electric Provider Residential Customer Satisfaction Survey.*

does the customer have complete information on which to base a decision. With EGSs in the primary billing agency role, not only can they send customers their bills, they can also make customers aware of other beneficial products and services, field customer inquiries about their electricity usage, and offer alternatives that lower customers' overall consumption and costs.

v. Reduction of Utility Bad Debt

With SCB, EGSs would assume the bad debt risk with which EDCs would otherwise be saddled. As proposed by the Coalition, EDCs would send the EGSs their charges for transmission and distribution service, and the EGSs would pay those charges within a Commission-approved time period, regardless whether the end-user or retail customer pays the EGSs. With this design, the EDCs' bad debt risk and operational costs would be reduced because the EDCs are agnostic as to whether the retail customer has paid. While this model can increase bad debt exposure to the EGSs, it is a necessary by-product of true competition. This risk should lie with the entities that are billing for the commodity service. Additionally, by having EGSs handle a growing number of billing inquiries, efficiencies should be realized that result in lower EDC overhead costs and overall lower rates for customers.

c. **Necessity of SCB to Facilitate Innovative Product Offerings**

The Secretarial Letter asks whether SCB is needed to facilitate innovative product offerings. The answer is unequivocally – yes. Even if all customers were shopping, SCB would be necessary to unleash the full potential of the competitive market where consumers have access to a diverse array of innovative products and services that are tailored to meet their individual needs. Among the choices that should be available to customers participating in a robust competitive market is the option to receive a consolidated electric bill from the entity that provides their electric supply services – just as they receive bills for any other product or service that they purchase from any other merchant, that include both the merchandise and delivery charges.

It is imperative that EGSs have the opportunity to create and maintain an ongoing relationship with their customers so that they can provide them with unique products and services tailored to meet individual needs.¹⁰⁰ A chief advantage of SCB is that it permits EGSs to use state of the art billing platforms that can provide sophisticated information about customer energy usage and usage patterns. These platforms can then also be used to bill additional products or services, and to provide a single and more simplified summary bill for such combined services.¹⁰¹

When suppliers cannot send consumers a consolidated bill that contains all electric charges, they cannot effectively promote innovative products and services or sell additional products and services to consumers beyond the commodity. For example, if an EGS partners with a rooftop solar business and desires to promote such an installation as part of its offering to provide commodity services to a customer, the efforts are unsuccessful if the EGS is unable to directly bill the customer. The way this type of sale would work is if the EGS could bundle the solar installation with the commodity product, and perhaps other services, and include all charges on a single bill. With Pennsylvania not currently offering SCB, these partnerships are not underway and Pennsylvania's electric consumers are being deprived of an opportunity to pursue a solar installation in a way that is attractive to them. Similarly, if an EGS uses home energy consultants to conduct retail marketing efforts for electric commodity, the consultants can often identify other needs that the customer might have, such as for home security or HVAC maintenance services.

¹⁰⁰ Besides benefitting customers, the direct relationship created SCB would better position EGSs to retain customers in whom they have invested substantial resources to acquire.

¹⁰¹ However, consistent with the requirements of UCB, a customer's electric service could not be terminated for non-payment of non-commodity value-added services; rather, the service could be terminated only for non-payment of the electric distribution and generation/transmission portion of the bill.

Without the ability to directly bill the customer on a consolidated bill for such services, however, the customer typically loses interest in further discussions despite clearly having a need and an interest for those services.

With respect to time-of-use rates, of which free nights and weekends are a popular version selected by customers in Texas, they also cannot effectively be offered in Pennsylvania today. While an EGS can sell this type of product to a Pennsylvania electric customer, the EGS cannot show the customer on the bill how they benefitted from being on this service. The only way to bill the customer is for the EGS to eliminate usage during the free period and charge the customer the agreed upon price per kWh for the remaining amount of usage. The Coalition has found that in the absence of the customer seeing a credit on the bill to reflect the free usage, the customer gains no satisfaction from being on this product and is not even sure that he or she received anything for free. Without being able to directly see the free electricity on the bill so that the customer sees the effect of using the electricity during the free period, EGSs cannot effectively market and sell these products in Pennsylvania.

The answer to these challenges lies neither in the UCB nor in a dual bill. As discussed in more detail below, utility bills lack the flexibility to allow for dynamic pricing enabled by smart meter data or charges for other services. Moreover, UCB does not permit suppliers to forge direct and long-term relationships with their customers. In short, as the seller of the commodity in a competitive retail market, EGSs should not be expected to depend on the regulated utility – currently their biggest competitor – to bill for these services.

Similarly, expecting the EGS to send its own separate bill to consumers – or the dual bill option – is not a reasonable alternative. As participants in the competitive market, the members of the Coalition are well aware that consumers do not want to receive two separate bills for their

electric services. They demand simplicity, and if EGSs cannot deliver, the customers will go elsewhere for their energy needs. Moreover, a dual bill option would not allow EGSs to manage their bad debt and would therefore be an ineffective solution. This alternative also does not address the inherent inequities of allowing the EDC to be the only entity in the market that is able to offer consolidated billing services.

Absent SCB, innovative product and service offerings will continue to be missing from Pennsylvania's retail electric market, meaning that shopping will continue to remain stagnant. Only through permitting suppliers to send consolidated bills will Pennsylvania finally see the innovation and benefits that the competitive retail market can bring to its residents and businesses.

d. Effect on or Interaction with Standard Offer Programs

The Commission's Secretarial Letter inquires as to the effect of implementation of SCB on standard offer programs ("SOPs") and how they would interact, if at all. This inquiry appears to be related to the discussion in the Commission's January 31, 2018 order regarding concerns about EGSs offering SCB not participating in SOPs. In that discussion, the Commission mentioned comments suggesting that the implementation of SCB might eliminate SOPs.¹⁰²

The Coalition does not believe that the implementation of SCB would have any immediate effect on SOP. However, in the future, no barrier would exist to allowing EGSs offering SCB to participate in SOPs. Once customers are aware of the way in which SCB works in the market, it would be a natural transition to make that option also available to SOP customers.

The terms and conditions of the SOPs, which are established in EDC default service proceedings, would not be automatically modified through the implementation of SCB. As the

¹⁰² *SCB Order* at 50.

SOPs are currently structured, EGSs would not be able to offer SCB as part of participating in those programs. However, nothing about having the option of SCB available in the market would prevent those EGSs or other EGSs from participating in the SOPs and using UCB. The premise upon which SCB is built is that it is being presented merely as another option – not as a replacement. Merely because SOPs have been successful in facilitating electric shopping does not mean they should be relied upon as a reason to forego giving customers yet another reason for wanting to shop – *i.e.* to purchase an innovative product that would not otherwise be available in the market.

4. Mechanics – How It Would Work

a. Financial/Technical Standards

Through the Secretarial Letter, the Commission asks whether EGSs should be required to meet more stringent financial/bonding requirements, demonstrate that they possess technical expertise to perform billing and customer service functions or make another other showing before being permitted to offer SCB. The Commission further seeks input as to what those requirements should be and what process should be used to review an EGS’s eligibility.

The Coalition proposes that EGSs offering SCB should be obligated to meet more stringent financial requirements than are currently imposed on EGSs to maintain their licenses and to demonstrate the technical expertise to perform billing and related functions, including customer service responsibilities. The possible standards include pre-defined financial requirements or posting necessary minimum financial guarantees; a minimum number of years of serving customers in Pennsylvania and other competitive electricity markets; documentation of an on-going risk management policy; maintaining a local office in Pennsylvania; experience serving a minimum number of residential electric customers; experience with call center/complaint handling functions; and experience with billing/credit and collections. While the Coalition suggests that the

Commission direct a Stakeholder Work Group to address these standards and submit recommendations to the Commission, a proposed set of standards that would be imposed on licensed EGSs includes:

- Post security naming the EDC as the beneficiary in the event of non-payment of distribution charges, in an amount equal to two months of distribution charges, using the highest two months in the most recent twelve-month period, which amount may be reviewed and adjusted quarterly;
- Provide and maintain security payable to the Commission with a face value of \$250,000 for the purpose of maintaining certification as an EGS in the SCB role, which is continuous and subject to cancellation only after 60 days' notice to the Commission and allows the Commission to direct that the proceeds be paid or disbursed;
- Document an on-going risk management policy;
- Maintain a local office in Pennsylvania;
- Have at least 5 years of experience serving customers in Pennsylvania or other competitive electricity markets;
- Have experience of serving at least 25,000 residential electric customers in Pennsylvania or other competitive electricity market;
- Have at least 5 years of experience or the equivalent with call center operations; complaint functions; and billing, credit and collection functions, which may be satisfied by entering into an agreement with a third party, including an affiliate, with the requisite 5-years' experience, to provide SCB services in Pennsylvania;
- Certify that it will comply with Chapter 14 and Section 1501 of Title 66 and Chapters 54, 56 and Sections 57.171-57.180 of Title 52, as well as any other provisions that are designated by the Commission;
- Certify that it will coordinate with the utility to exchange information and data, in formats and standards approved by the Commission or, if not approved, then agreed to by the EGS and EDC, before the EGS engages in SCB services in the EDC's service territory;
- Provide at least 10 days' notice to the Staff of the Commission before beginning the provision of SCB services in Pennsylvania, confirming that the EGS has completed the EDC's testing to provide SCB in the EDC's service area; and
- Implement an ongoing quality assurance process to evaluate randomly selected retrospective customer bills for accuracy, maintain the results of the quality assurance

process for three years and provide the results of the process to the Commission upon request.

The Coalition is open to suggestions from other parties as to additional or revised criteria.

Further, to ensure adequate review of the EGS's qualifications to offer SCB, the Coalition proposes that the Commission utilize a licensing application process that is similar to that which is in place for EGS applicants. Such a process would involve service of the application on EDCs and the statutory advocates, who would have an opportunity to raise any specific issues concerning the financial and technical qualification of the EGS to perform SCB. Following a review of the application, the Coalition proposes that the Commission consider them at a public meeting and impose any conditions of participation in the market as a SCB supplier that it deems reasonable.

b. Pilot Program

By the Secretarial Letter, the Commission poses a question about whether a pilot program involving an EDC working with an EGS or group of EGSs to design and implement a SCB platform would be appropriate. While the Coalition recognizes that pilots can sometimes be effective in testing new programs, we do not believe that SCB presents an appropriate opportunity for a pilot.

The investment needed by EGSs to implement SCB is significant, both in terms of build-out and costs. EGSs are unlikely to make this level of investment with uncertainty as to the continued and statewide availability of SCB. Also, in order for a pilot to operate effectively, it would be necessary to EGSs and EDCs to work with EDEWG to develop new EDI transactions and refine existing EDI protocols to facilitate the accurate and timely exchange of customer information. The time commitment and human resources involved in that process would not be worthwhile if SCB is only going to be offered on a pilot basis.

In essence, without even declaring SCB a pilot, it would naturally be phased in and the market would not see a flash cut to SCB. Because qualified and interested EGSs would need to be certified by the Commission to offer SCB and would then need to enroll customers who wish to receive a single bill from their supplier, it would take some time for any customers to begin receiving consolidated bills from their EGSs. Indeed, the nearly 2 million customers who are currently served by EGSs would continue to receive a consolidated bill from the EDC at least until their contracts reach their expiration dates and they consent to new terms of service that include SCB as the billing option. While some EGSs may be similarly situated to the Coalition in terms of desiring to offer SCB and be ready to do so shortly after implementation, it is clear that a natural transition will occur and that the market will not suddenly see millions of customers receiving consolidated bills from their suppliers.

Additionally, the Coalition believes that some aspects of SCB would be appropriate for implementation through a phase-in or utility-by-utility approach. A good example is disconnection for non-payment. When SCB was first implemented in Texas fifteen years ago, suppliers were initially not able to initiate the termination process. While the PUCT declared that disconnection for nonpayment would be an element of SCB, this particular aspect of the program was phased in. In the early days of SCB in Texas, the utilities and suppliers did testing to ensure that the communication protocols were working correctly and timely and also engaged in mock termination activities. Any number of phase-in approaches could be used for this aspect of SCB, as well as others that may be identified by stakeholders, provided that the key elements of the program are clearly established by the Commission from the outset.

c. Timely Payment to EDC

In the Secretarial Letter, the Commission asks what steps it would need to take to ensure that EDCs receive payment according to the terms of the POR program in a timely fashion. If the

Commission grants an EGS authority to be an SCB supplier subject to the execution of an agreement with the EDC to make payments under the POR program within a certain number of days, no further measures would be necessary. The Coalition is not aware of any steps the Commission takes today to ensure that EGSs receive payment from the EDCs according to the terms of the POR program in a timely fashion, even though the accounts receivable for product supply charges, as with most products purchased by consumers, would typically be much higher than the accounts receivable for delivery charges. Rather, those payment terms are established in supplier tariff provisions or set forth in trading partner agreements, which are standard operating practice in the energy industry. Similarly, EGSs are billed regularly for their participation in the SOP program and no special measures are taken by the Commission to ensure that EGSs pay the EDCs in a timely fashion.

No barriers exist to EGSs being contractually obligated to pay EDCs the full amount of the receivables within a certain number of days, and to the extent that did not occur, the EGSs would be in breach of their contracts – just like EDCs would be in violation of supplier tariff provisions or in breach of contracts today. Also, the Coalition is proposing standards that designed ensure the financial capability of the EGSs to make those payments and requiring EGSs to post security in the amount of two months’ of accounts receivables in the EDC’s name. If an EGS fails to comply with the terms of the contracts, they would not only be liable for breaches in courts of law, the Commission could also revoke their SCB license for failing to comply with a key term of the program.

d. Costs and Cost Recovery

The Secretarial Letter inquires as to the type of costs that may be incurred by EDCs and EGSs when implementing SCB in Pennsylvania’s retail market and further asks whether the costs

of implementation would outweigh the benefits. The Commission also seeks input on who should pay for those costs.

Notably, in exchange for various concessions, including the recovery of stranded costs, several EDCs agreed in 1998 to implement SCB by January 1, 1999.¹⁰³ Rather than identifying any incremental costs, the settlements provided for a further unbundling of the EDCs' retail electric rates for metering, meter reading, and billing and collection services to furnish *credits* to those customers who elect to have their EGSs perform these services.¹⁰⁴

Nonetheless, parties raised issues about costs and cost recovery in the response to NRG's petition. PECO provided an estimate of \$4.5 million in IT costs for implementing SCB.¹⁰⁵ Although the Coalition has no information upon which to assess the reasonableness or validity of PECO's estimate, we note that PECO has had this functionality in the past and still has provisions for SCB in its supplier tariff.¹⁰⁶ Assuming that PECO serves approximately 1.6 million electric customers, the average one-time cost per customer would be less than \$3.00, which does not appear to represent a significant concern with respect to costs. With the recognition that the EDCs typically recover such costs over a period of time,¹⁰⁷ the Coalition notes that if these costs were

¹⁰³ See, e.g., *PECO Restructuring Order*.

¹⁰⁴ See, e.g., Joint Petition for Full Settlement of PECO Energy's Proposed Restructuring Plan filed April 29, 1998, ¶ 22, approved by the *PECO Restructuring Order*.

¹⁰⁵ PECO comments at 33.

¹⁰⁶ See, e.g., PECO Pa. P.U.C. No. 1S, Page Nos. 97-101, Billing Service Options, Section 19. Due to the passage of time and to standardize the process throughout Pennsylvania, these provisions are now in need of updating.

¹⁰⁷ See, e.g., *Petition of PECO Energy Company for Approval of its Act 129 Energy Efficiency and Conservation Plan and Expedited Approval of its Compact Fluorescent Lamp Program*, Docket No. M-2009-2093215 (Order entered October 28, 2009).

recovered over one year, SCB would cost customers on average less than a quarter per month. Also, this estimate does not consider any savings that PECO would be realizing as a result of sending fewer bills, handling fewer consumer complaints and reduced uncollectible amounts due to EGSs fully purchasing their accounts receivables for their distribution charges.

As to any other inferences that EDCs may incur additional costs, very little details have been described and it is difficult to surmise how costs would increase if EDCs are sending fewer bills and handling fewer customer service functions. To the extent that an EDC needs to have access to EGS information to coordinate on complaint-handling, they can use established communications channels to exchange information. Given that EDCs agreed in 1998 to provide billing credits to customers who received supplier consolidated billing systems, it is not clear why the basic dynamics of that arrangement would have changed even with subsequent changes in billing systems.

Importantly, despite providing another billing option that would be available to consumers in the market, the Coalition does not envision SCB as requiring any changes to the EDC's existing billing systems. Rather, EDCs would simply be sending fewer bills to consumers. The changes that are required to enable the implementation of SCB are refinements to existing EDI transactions, the development of new EDI transactions and the reversal of some EDI transactions. For instance, billing data would need to be transmitted by EDCs to EGSs rather from EGSs to EDCs. Changes to EDI transactions and the exchange of information between EDCs and EGSs would not result in any modifications to the EDCs' billing systems.

To the extent that the EDCs incur incremental costs, they should be permitted to use a non-bypassable mechanism to recover costs from all customers. Since implementation of SCB will benefit the competitive market and will affect all customers, it is reasonable that the costs

associated with it be recovered from all distribution customers on a non-bypassable basis through a surcharge of some similar mechanism. This approach would be consistent with what the Commission has done in connection with other retail market enhancements. For example, in 2014, a non-bypassable surcharge was used to recover, on a full and current basis, the costs of implementation of billing system changes related to implementing and promoting electric competition within this Commonwealth.¹⁰⁸

As to costs that would be incurred by EGSs to implement SCB and how they would be recovered, those are factors for the EGSs to consider in making business decisions. Depending on a particular EGS's business model or experience with SCB in another jurisdiction, the costs and how they would be absorbed would vary widely. It is up to EGSs to price their products in a way that enables them to make money and attract customers. Even if losses must be absorbed in the short term as a result of investing in SCB, EGSs who are willing to take that approach would expect to make up for the losses in the long-term by keeping customers longer or by selling them a broader array of products and services. Since EGS prices are not regulated by the Commission, the costs that would be incurred and how they would be recovered (or if they would be recovered) are issues that do not need to be explored in this proceeding. Any concerns that EGSs would increase their retail prices in order to offset the costs of implementing SCB can be addressed by simply noting that an EGS charging prices that cannot be borne by the market will not stay in business very long. Retail customers in Pennsylvania have choices; if the EGS prices or some

¹⁰⁸ *Investigation of Pennsylvania's Retail Electricity Market: Joint Electric Distribution Company -- Electric Generation Supplier Bill*, Docket No. M-2014-2401345, Opinion and Order entered May 23, 2014 (costs of the inclusion of the EGS logo, the expansion of bill messaging space and the inclusion of a Shopping Information Box be recovered from all distribution customers).

other aspect of the product they are offering is not attractive to customers, the customers will simply choose another EGS or return to the EDC for default service.

e. Default Service Provider Designation

The Secretarial Letter also asks whether it is feasible or appropriate to designate an EGS offering SCB as a default service provider. In posing this question, the Secretarial Letter refers to the statutory definition of default service provider,¹⁰⁹ the statutory obligation of EDCs to serve in the default service role,¹¹⁰ and the process for changing the default service provider as established by the Commission's regulations.¹¹¹ Under all of these provisions, the default service obligation clearly entails the provision of generation service to customers who do not select a supplier. Given that purpose of the default service role, the Coalition sees no link between its proposal for the implementation of SCB and the designation as a default service provider. However, SCB is a natural function of providing default service and could facilitate the transition to a model where EGSs serve as the default service provider. The Coalition suspects that this question may be related to the Commission's discussion in the January 31, 2018 order regarding its view that only public utilities or default service providers should have the ability to terminate a nonpaying customer's electric service.¹¹² The Commission's reasoning appears to be that while a default service provider needs the power to terminate customers for non-payment due to its obligation to serve, an EGS in the SCB role does not need this power since it can drop the customer to default service for non-payment. This rationale is flawed because it overlooks the fact that if an EGS's

¹⁰⁹ 66 Pa.C.S. § 2803.

¹¹⁰ 66 Pa.C.S. § 2807(e).

¹¹¹ 52 Pa. Code § 54.183.

¹¹² *SCB Order* at 33-34.

only option is to drop customers who do not pay their bills, they will have no ability to manage their debt. In the same way that utilities for years have used the threat of termination to incent customers to pay their bills, EGSs providing SCB need the same tools. This issue is addressed more fully in the next section.

5. Collections – Termination

a. Need for EGS to Order Termination

A question posed by the Secretarial Letter is whether EGSs offering SCB need the power to order termination of a customer’s service. The Coalition submits that EGSs offering SCB must have the power to *initiate* the service termination process as a result of a customer’s non-payment in accordance with Chapter 14 of the Code¹¹³ and Chapter 56 of the Commission’s regulations.¹¹⁴ As proposed by the Coalition, the EGS would initiate the process by sending an EDI service termination transaction to the EDC, verifying that the termination is requested for a reason authorized by Chapter 14.¹¹⁵ The EDC would then have an opportunity to reject the request based upon criteria established in Chapter 14.¹¹⁶

Upon acceptance of the request from the EGS to initiate the termination process, the EDC would initiate and handle the termination process, including the issuance of notices, physical

¹¹³ 66 Pa. C.S. Ch. 14.

¹¹⁴ 52 Pa. Code Ch. 56.

¹¹⁵ 66 Pa. C.S. § 1406(a) and (c).

¹¹⁶ 66 Pa.C.S. § 1406(d)-(f). The Coalition is not proposing that EGSs have the ability to withhold the payment of accounts receivables resulting from a rejection of the EDC’s termination request. To the extent that EGSs and EDCs are not able to efficiently work through the termination process as trading partners, the Coalition will revisit these issues with the Commission at the appropriate time.

disconnection and reconnection,¹¹⁷ and would be indemnified against any EGS error in requesting the termination. The EGS's involvement would be limited to: (i) interactions with the customer to establish a payment arrangement and accept payment; and (ii) timely communications with the EDC (through EDI) regarding the receipt of payment so as to avoid termination or to commence the reconnection. The delineation of responsibilities and obligations would be fully set forth in an agreement between the EDC and EGS or by Commission interim guidelines and regulations.

EGSs must have the power to initiate the termination process for non-payment for the same reason that EDCs have this power – in order to effectively manage their bad debt.¹¹⁸ The threat of termination is a powerful tool to encourage payment by customers. Indeed, in evaluating the effectiveness of Chapter 14, the Commission has recognized that “utilities are using termination as a collections tool to effectively manage customer debt.”¹¹⁹ Without this tool, the only other recourse available to EGSs would be to drop the non-paying customer and pursue their own collection activities or to require the maximum cash deposit permitted by Code Section 1404 at the time of enrollment.¹²⁰

However, neither avenue would be effective in encouraging payment by customers who have long been threatened with service termination before paying their bills. It would also be

¹¹⁷ 66 Pa. C.S. §§ 1406(b) and 1407.

¹¹⁸ For example, the Commission summarized comments filed by UGI Utilities, Inc. as opining that “Chapter 14 provides Pennsylvania utilities with the tools to reduce their cost of collection and termination and encourages the Commission to embrace those tools and allow the utilities to exercise wide discretion free from unnecessary administrative obstacles and burdens to pursue revenue collection and termination practices.” *Chapter 14 Rulemaking Order*, Attachment 1.

¹¹⁹ https://www.puc.state.pa.us/general/publications_reports/pdf/Chapter14-Biennial011411.pdf. (January 14, 2011 at i).

¹²⁰ 66 Pa. C.S. § 1404 (a).

contrary to the express objectives of Chapter 14 to eliminate “opportunities for customers capable of paying to avoid the timely payment of public utility bills.”¹²¹ While a savvy customer may choose on his or her own to return to default service in an effort to avoid an EGS’s collection activities, that is a cost of business that EGSs would need to absorb. Nonetheless, the establishment of a rule that would automatically return customers to default service, rather than holding them accountable to pay their bills, would encourage the very same irresponsible conduct that Chapter 14 seeks to avoid.

As Chapter 14 establishes an equitable means for public utilities to reduce their uncollectible accounts,¹²² the same tools must be available to EGSs offering SCB. The ability to manage bad debt should be made available to the entity conducting the billing function, not tied to the provision of default service. Absent the ability to direct the implementation of termination protocols, an EGS would be unable to manage its bad debt or have any meaningful opportunity to collect unpaid amounts from their non-paying customers. Dropping a customer back to default service also does not resolve the non-payment issue. The EGS is still left having to absorb the unpaid amounts or collecting them from other customers through higher prices. Unlike EDCs, EGSs do not have the ability to collect uncollectible expenses from other customers through base rates. Continuing the same termination protocols that are currently in effect would preserve the protections afforded by Chapter 14 to all utility customers.

Contrary to the implication in the *SCB Order* that EGSs will run rough shod over customers, terminating their service on a whim, the Coalition notes that terminating a customer’s

¹²¹ 66 Pa. C.S. § 1402(2).

¹²² 66 Pa. C.S. § 1402(3).

service is the worst possible outcome of a business-customer relationship that took significant costs and time to acquire in the first place. Indeed, based on the Coalition's experience in other jurisdictions, EGSs would offer generous payment plans and other tools to help payment-challenged customers. As businesses serving customers with other supply options in the market, EGSs would be incentivized - even without any rules and regulations - to take every possible measure short of initiating the termination process. EGSs want to keep the customers and continue providing them with electric supply services, as well as other non-commodity products and services that may be offered by the EGSs. In the competitive market where customers can simply leave the supplier, terminating service is not the way to keep customers satisfied and make money. To the extent that the Commission continues to have concerns about the effect of SCB on terminations, the Coalition proposes to that EGSs providing SCB be required to provide quarterly reports (on a confidential basis) to the Commission regarding the number of terminations that have been requested and implemented, along with other data as required by the Commission.

Notwithstanding the necessity for EGSs to have the ability to initiate the termination process for non-payment, this element of SCB could be phased in over time. Although the Coalition encourages the Commission to make it clear that EGSs will be able to initiate the termination process when customers do not pay their bills, the Coalition recognizes the sensitivities regarding this topic and suggests that a "soft open" for disconnect for non-payment of commodity charges may be appropriate. Under this approach, EGSs would not initially be able to initiate the termination process and for a set period of time established by the Commission would be required to test the communication protocols between suppliers and utilities to ensure that they are working effectively. EGSs could similarly be required to engage in mock termination practices with the EDCs for a certain number of weeks before the termination process may be initiated by EGS. Only

upon receiving assurances from the EGSs and EDCs that the communication protocols and termination practices appear to be working smoothly would the Commission issue a directive for this phase of SCB to begin.

b. Compliance with Statute and Regulations

The Secretarial Letter also asks whether allowing an EGS to initiate the termination process would comply with Chapter 14 of the Code and Chapter 56 of the Commission’s regulations. Nothing in Chapter 14 of the Code limits the authority of the Commission to allow EGSs to initiate the termination process. With respect to termination, Chapter 14 only addresses the reasons for which a public utility may terminate service, the notices that must be given by the public utility prior to terminating service and the timing of termination by the public utility. The Coalition’s proposal for EGSs offering SCB to initiate the termination process does not affect the public utility’s obligations to comply with Chapter 14. Indeed, since the termination notices and the physical termination would still be handled by the EDC, the provisions of Chapter 14 are not implicated by SCB at all.¹²³

Similarly, the specific provisions of Chapter 56 identified by the Commission do not create a barrier to implementing SCB. Sections 56.81-56.83 provide the reasons for which service may or may not be terminated and address the timing of termination, mirroring the corresponding provisions in Chapter 14.¹²⁴ Sections 56.91-56.101 establish the notice provisions and the contents of termination notices, the procedures that must be followed immediately prior to termination,

¹²³ In comments filed in the pending Chapter 56 rulemaking proceeding, NRG identified specific changes that would need to be made to termination notices, such as instructing the customer to contact the supplier to make payment arrangements. *Chapter 56 Rulemaking* (NRG comments filed on April 17, 2017).

¹²⁴ 56 Pa. Code §§ 56.81-56.83.

post-termination notices, and written termination procedures, again reflecting the Chapter 14 requirements.¹²⁵ Sections 56.111-56.118 of the Commission's regulations establish the medical certification procedures.

A particular provision in those regulations that would be affected by SCB is Section 56.97, which addresses the procedures that are followed if a customer contacts the utility after the issuance of the initial termination notice and prior to the actual termination of service. Specifically, Section 56.97 requires an authorized public utility employee to fully explain the reasons for the proposed termination, all available methods for avoiding a termination and the medical emergency procedures. Also, Section 56.97 requires the public utility to exercise good faith and fair judgment in attempting to enter into a reasonable payment agreement or otherwise equitably resolve the matter, and that if such resolution is not possible, to explain the right of the customer to file a dispute and thereafter an informal complaint with the Commission, the procedures for resolving disputes and informal complaints and the duty of the customer to pay any undisputed portion of the bill.¹²⁶

Under the Coalition's proposal, these functions would be performed by an employee of the EGS offering SCB instead of by a utility employee. Therefore, Section 56.97 would need to be revised by the Commission in the context of implementing SCB to obligate an employee of the billing entity to provide this information to a customer who makes telephone contact following issuance of the termination notice and prior to the actual termination. Similarly, some other provisions would need to be revised to contain reference to the billing entity.

¹²⁵ 56 Pa. Code §§ 56.91-56.101.

¹²⁶ 56 Pa. Code §§ 56.97.

Currently, a Chapter 56 rulemaking is pending in which the Commission could make such changes.¹²⁷ Indeed, NRG filed comments on April 19, 2017 in that pending proceeding proposing Chapter 56 revisions that are primarily aimed at accommodating and facilitating the implementation of SCB. As part of those comments, NRG proposed a new subchapter within Chapter 56 that would govern the provision of SCB by EGSs, noting that even in the absence of new regulations, the Commission could implement SCB through the issuance of interim guidelines or through trading agreements entered into by EGSs and EDCs.¹²⁸

Besides adding a new subchapter, NRG also proposed several changes to the existing provisions of Chapter 56. One of those specific proposals was a change to Section 56.97 where “billing entity” would replace “public utility,” thereby obligating the billing entity’s employee to explain the reasons for termination and all methods for avoiding termination; provide information and refer the customer to the public utility’s universal service program;¹²⁹ explain the medical emergency procedures; attempt to enter into a payment arrangement; and explain the customer’s rights to file a dispute or informal complaint if a payment arrangement is not established. NRG also identified other instances in the Chapter 56 provisions where it would be necessary to include references to billing entities to accommodate the implementation of SCB.

Since this Chapter 56 rulemaking is still pending, it is an ideal vehicle through which the Commission may make changes to those provisions that are necessary for SCB. Even to the extent

¹²⁷ *Chapter 56 Rulemaking.*

¹²⁸ NRG Comments are available at this link: <http://www.puc.pa.gov/pdocs/1517574.pdf>

¹²⁹ Although this information is not currently required by Section 56.97, Code Section 1410.1(1) and (2), added to Chapter 14 during the reauthorization in 2014, now mandate that public utilities share this information with a consumer during the termination process.

that the Commission does not utilize this vehicle, it is free at any time to temporarily waive regulations such that it could relieve public utilities of performing certain functions if they are being handled by billing entity employees.¹³⁰ Also, the Commission has frequently used an interim guidelines approach pending the promulgation of regulations.¹³¹

c. Authority of EDC to Terminate

The Secretarial Letter questions whether an EDC would have the authority under Chapter 14 and the Commission’s regulations to terminate service for nonpayment of distribution charges if an EGS has purchased an EDC’s receivables and the EDC is no longer owed any money. Simply, neither Chapter 14 nor Chapter 56 would preclude an EDC from physically disconnecting a customer’s service for non-payment.

Under both Chapter 14 of the Code and Chapter 56 of the Commission’s regulations, it is the non-payment by the customer that triggers the termination process. Code Section 1406(a) expressly authorizes a public utility to notify a customer and terminate service following notice for specific reasons, including “[n]onpayment of an undisputed delinquent account.”¹³² The language in Section 56.81 of the Commission’s regulations mirrors this statutory provision.¹³³ The EDC’s authority under Code Section 1406(a) to notify the customers and terminate service following notice is not dependent on whether it has been paid. The EGS’ purchase of the EDC’s

¹³⁰ *Township of Collier v. Pennsylvania-American Water Company*, Docket No. C-20016207, 2004 Pa. PUC LEXIS 26 (2004).

¹³¹ *Rulemaking Re: Marketing and Sales Practices for the Retail Residential Energy Market*, Docket No. L-2010-2208332 (Corrected Final Rulemaking Order entered October 24, 2012); *See also Interim Guidelines Regarding Notification by an Electric Generation Supplier of Operational Changes Affecting Customer Service and Contracts* (Order entered August 14, 1998).

¹³² 66 Pa.C.S. § 1406(a).

¹³³ 52 Pa. Code § 56.81(1).

receivables does not change the fact – the triggering event for termination – that the customer has not paid the electric bill. Clearly, the EDC has authority under both Code Section 1406(a) and Section 56.81 of the Commission’s regulations to terminate the customer’s service upon receipt of a notice from the SCB supplier of nonpayment by the customer of an undisputed delinquent account.

d. Safeguards to Ensure Proper Termination/Reconnection

Through the Secretarial Letter, the Commission questions what safeguards an EGS can employ to ensure proper termination and reconnection of service by the EDC. Specifically, the Commission points to the timely sharing of data, the use of termination checklists and customer understanding of the functions handled by the EGS versus those handled by the EDC. Additionally, the Commission inquires as to the role, responsibility and discretion of the EDC in executing the termination process.

As envisioned by the Coalition, the EGS would initiate the termination process by sending an EDI transaction to the EDC. Much like the LOA used for the account number access mechanism,¹³⁴ the EGS would verify through that transaction that the customer’s account is eligible for termination for a lawful reason pursuant to Code Section 1406(a), which would be identified on the transaction.¹³⁵ This EDI transaction would also include an itemized statement of

¹³⁴ See, e.g., *EDC Customer Account Number Access Mechanism for EGSs*, Docket No. M-2013-2355751 (Order entered July 17, 2013).

¹³⁵ 66 Pa. C.S. § 1406(a) and (c). Note that an EGS’s reasons for requesting that the EDC initiate the termination process include nonpayment of an undisputed delinquent account; failure to comply with material terms of a payment arrangement; failure to complete payment of a deposit, provide a guarantee of payment or establish credit; or tendering payment for reconnection of service that is subsequently dishonored. 66 Pa. C.S. § 1406(a)(1)-(3). 66 Pa. C.S. § 1406(c)(v). Only EDCs would initiate termination procedures for failure to permit access to meters, service connections or other property of the public utility for the purpose of replacement, maintenance, repair or meter

amounts currently due to satisfy the requirement of Section 56.91 of the Commission's regulations. The EDC would then either reject the termination transaction, citing a reason code (*i.e.* medical certification, winter termination), or begin the termination process outlined by Code Section 1406(b), commencing with the issuance of written notice to the customer and taking all remaining steps set forth therein through the physical disconnection.¹³⁶ Specifically, the EDC would continue to handle the communications required by Code Section 1406(b) and implement the terminations in a manner that is consistent with the timing and winter termination provisions of Code Section 1406(d) and (e) and in accordance with the medical certification provision in Code Section 1406(f).¹³⁷ Following the transmission of the EDI transaction initiating the termination process, the EGS's involvement would be limited to interactions with the customer for purposes of responding to questions, negotiating a payment arrangement or accepting payment and communications with the EDC regarding payment by the customer. As to stopping termination due to payment, those communications would likewise be made through EDI from the EGS to the EDC. This is precisely how the process currently works in Texas.

With respect to the reconnection of service under Code Section 1407, the EGS would accept payment of the EDC reconnection fee from the customer and transmit that payment to the EDC in accordance with the payment protocols that are ultimately established as part of this

reading. 66 Pa. C.S. § 1406(a)(4). Similarly, only an EDC would terminate service for unauthorized use, fraud, meter-tampering or violations of the tariff. 66 Pa. C.S. § 1406(c)(i)-(iv).

¹³⁶ 66 Pa. C.S. § 1406(b). Under the Coalition's proposal, EGSs would have the option of sending their own collection notices to the customer before initiating the termination process and would be able to inform the customer that absent payment by a certain date, the EGS would be referring the account to the EDC to commence the termination process.

¹³⁷ 66 Pa. C.S. § 1407(d)-(f).

proceeding. Upon receipt of the reconnection fee and payment by the customer in accordance with Code Section 1407(c),¹³⁸ the EGS would send an EDI transaction to the EDC requesting reconnection. To enable the EGS to comply with the payback periods established by Code Section 1407(c), the EGS would need to collect the customer's poverty level information and follow the stipulated timelines accordingly. When the EDC receives the EDI transaction from the EGS requesting reconnection, it would be obligated to follow the requirements set forth in Code Section 1407(b).¹³⁹

In addition, the EGS would provide full indemnification to the EDC for an improper termination or improper delay in reconnection of service, provided that the issue was a matter over which the EGS has control. For instance, if an EGS erred in identifying the customer as having an unpaid balance, the EGS would bear responsibility for that error. It is proposed that such indemnification language would be set forth in the model agreement between EGSs and EDCs.

The need for EDCs and EGSs offering SCB to exchange customer information in order to handle their respective responsibilities is consistent with the way choice works today. The whole purpose of EDI is to facilitate the exchange of customer account information between EDCs and EGSs. To the extent that it includes information that is confidential, protocols are already in place to ensure that its confidentiality is preserved. The Commission has noted that EDEWG's mission statement is to "explore economical ways of exchanging data in a secure manner and to develop

¹³⁸ 66 Pa. C.S. § 1407(c).

¹³⁹ 66 Pa. C.S. § 1407(b).

uniform standards, while ensuring consumer privacy and data protection.”¹⁴⁰ Information is also currently shared by EDCs through EGS access to web portals.

In addition, the EGS would provide full indemnification to the EDC for an improper termination or improper delay in reconnection of service, provided that the issue was a matter over which NRG has control. For instance, if an EGS erred in identifying the customer as having an unpaid balance, the EGS would bear responsibility for that error. It is proposed that such indemnification language would be set forth in the model agreement between EGSs and EDCs that is proposed by NRG’s Petition.

With the ability of the EDC to reject the termination request, citing a reason code, that option affords sufficient checks and balances to minimize, if not avoid, errors. In any event, EGSs would be the parties responsible for the termination decision and as such would be the parties who would be accountable to the Commission for any violations relating to termination or reconnection of service in connection with matters under their control.

e. Blocking Mechanism

Two questions posed by the Secretarial Letter relate to a blocking mechanism that prevents switching by customers who have made payment arrangements with the EGS and what consumer protections should be implemented by an EGS if a blocking mechanism is permitted. Although NRG originally proposed a blocking mechanism in its Petition, it revised its proposal through Reply Comments to remove that element from its SCB proposal. Likewise, the Coalition is not proposing that the Commission permit EGSs to implement blocking mechanisms as part of SCB.

¹⁴⁰ *PPL Electric Utilities Corporation Retail Markets*, Docket No. M-2009-2104271 (Order entered August 11, 2009), 2009 Pa. PUC LEXIS 264 (“*PPL Retail Markets Order*”) at 20.

While such a mechanism is the only way to avoid the situation where a savvy customer figures out how to maintain electric service without paying their bills, the Coalition recognizes the concerns expressed by the Commission in the *SCB Order*. Certainly, gaming is an issue that the Commission should be aware is possible; only time and experience will inform whether it is a problem that needs a regulatory fix. Rather than pursuing the use of a blocking mechanism at this time, the Coalition is willing to use traditional collection efforts against that subset of customers who seek to avoid the payment of their electric bills and absorb the costs of those efforts, as well as the likely inability to successfully collect those amounts, as a cost of doing business as a SCB supplier in Pennsylvania. The Coalition is satisfied that the other opportunities its members will gain to sell commodity and non-commodity products to retail customers in Pennsylvania will offset those costs and enable them to successfully participate in this market.

f. Non-Payment of Charges for Non-Basic Services

The Commission's Secretarial Letter inquires as to the steps that EGSs should take to ensure proper account for value-added charges pursuant to Chapter 56 of the Commission's regulations, including allocation of customer payments to accounts with past due balances. The Commission further asks whether it has authority under the Code to require EGSs to follow these regulations and questions whether procedures should be put in place to ensure that nonpayment of charges for value-added services does not lead to termination of service. If so, the Commission asks what procedures should be implemented.

Under Code Section 2809(e), the Commission is authorized to impose requirements on EGSs that are "necessary to ensure that the present quality of service provided by electric utilities does not deteriorate, including...assuring that 52 Pa. Code Ch. 56 (relating to standards and billing

practices for residential utility service) are maintained.”¹⁴¹ To the extent that EGSs are performing billing, collection, termination and complaint handling functions, the Commission may – and in fact, is obligated by the law – to require them to comply with Chapter 14 of the Public Utility Code, Chapter 56 of the Commission’s regulations and any other applicable requirements to ensure that the present quality of service does not deteriorate. In fact, the Commission’s licensing orders already impose a duty on EGSs to comply with Chapter 56 to the extent applicable.¹⁴²

Since the Commission already requires EGS compliance with Chapter 56 provisions, and the Coalition is proposing that SCB be implemented in a manner that assures adherence to Chapter 56 by EGSs, the Commission does not need to take any additional steps. Section 56.23 governs the application of partial payments made by customers that are insufficient to pay the balance due for charges for both basic service and nonbasic service, such as merchandise, appliances and special services. This provision requires the public utility, or in this instance the billing entity, to first apply the partial payments to the charges for basic service.¹⁴³ Section 56.24 governs the application of partial payments that are insufficient to pay the balance due for both prior basic service and for service billed during the current billing period. Under this rule, the public utility – or billing entity- must first apply the partial payments to the balance due for prior basic service. Section 56.83(3) precludes termination for nonpayment, in whole or in part, of nonbasic charges.¹⁴⁴

¹⁴¹ 66 Pa. C.S. § 2809(e).

¹⁴² *See Request of Reliant Energy Northeast, LLC d/b/a/ Reliant Energy for Approval to Amend its Electric Generation Supplier License as a Retail Electric Power Supplier*, Docket No. A-2010-2192350 (Order entered May 19, 2011).

¹⁴³ 52 Pa. Code § 56.23.

¹⁴⁴ 52 Pa. Code § 56.83(3).

Given that Chapter 56 establishes rules governing the allocation of partial payments and prohibits termination for nonpayment of nonbasic charges, the Commission has authority under the Code to impose these requirements on EGSs. The only clarification that may be necessary is to the definition of basic services, which is currently defined to include services necessary for the physical delivery of public utility service and the default generation service provided by EDCs.¹⁴⁵ In its comments in the pending Chapter 56 rulemaking, NRG proposed to add commodity services provided by an EGS to the definition of basic service.

In any event, the Coalition proposes that the Commission need only make clear to EGSs performing SCB that they must comply with the regulations in Chapter 56 concerning the application of partial payments and the inability to terminate due to non-payment of nonbasic charges. As the rules do not permit termination for non-payment of non-basic services, EGSs' procedures would necessarily include mechanisms to prevent such an occurrence. However, EGSs would have the ability to remove that additional product or service from the customer's portfolio, which would be an effective way to manage those risks.

6. Low-Income Customers / Assistance Programs

The Secretarial Letter asks a series of questions relating to the inclusion of customers receiving LIHEAP credits or in customer assistance programs ("CAP") and the interplay between SCB and those subsidies. In addition, the Commission inquires as to how EGSs would ensure that programs to assist low-income programs remain in place and questions how EGS-implementation of SCB would affect existing universal service billing procedures.

¹⁴⁵ 52 Pa. Code § 56.2 (definitions).

While the Coalition is generally opposed to placing any restrictions on the ability of customers, including low-income customers or customers receiving subsidies, to freely participate in the competitive market and select a supplier of their choice, the Coalition understands that LIHEAP credits and CAP subsidies are not portable in Pennsylvania. For this reason, the Coalition believes that SCB suppliers should not enroll customers receiving LIHEAP credits and CAP subsidies unless the customers affirmatively elect to forfeit those credits or subsidies by contacting their EDCs. When EGSs offering SCB enroll customers who later become eligible for LIHEAP credits or CAP subsidies, they should be required to return the customers to default service without any early termination fees.¹⁴⁶ Customers should also be educated when applying for LIHEAP credits or CAP subsidies that participation in such programs will make them ineligible to receive generation supply services from EGSs offering SCB. Since the Coalition does not expect that all EGSs in the market will be engaged in SCB, this ineligibility would not close the retail market to such customers. Rather, they would still be able to select offers from EGSs using UCB, including the EGSs participating in the EDC's SOP.

Given the Coalition's proposal that customers receiving LIHEAP credits or CAP subsidies be ineligible to select an EGS performing SCB, no issues would arise requiring EGSs to ensure that programs to assist low-income customers remain in place. That obligation would continue to be fulfilled by the EDCs. Similarly, the implementation of SCB would not have any effect on universal service billing procedures.

¹⁴⁶ *See Petition of PPL Electric Utilities Corporation for Approval of a Default Service Program and Procurement Plan for the Period June 1, 2017 through May 31, 2021, Docket No. P-2016-2526627 (Order entered February 9, 2018) (Commission established a process for returning customers to default service upon enrolling in a CAP, which is a template that could be considered here).*

As to referrals to EDC low-income programs, the Coalition recommends 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 on the options and programs that are available. Such options may include special programs being offered by the EGSs.

7. Possible Alternatives

a. Changes to Utility Bills

Through the Secretarial Letter, the Commission asks whether changes should be made to UCB to allow for flexibility for EGSs to bill for smart-meter related services like time-of-use and the addition of charges for EGS value-added services. The Coalition strongly urges the Commission to forego pursuing modifications to the EDC's billing systems to allow for the billing of smart-meter related services and charges for non-commodity products offered by EGS. As a threshold matter, use of UCB by EGSs has fostered barriers that stifle competition including:

- Reinforcing the misperception of the EDCs that they “own” the customers and must “protect” them;
- Confusing customers who are receiving a product from a non-EDC but are being billed for that product by the EDC;
- Creating the misimpression for consumers that EDC-provided default service is superior because only the EDCs can bill the customer; and,
- Reinforcing the inappropriate messaging that the utility price is an appropriate benchmark by which competitive offers should be measured.

In short, when EGSs enroll customers for generation supply service and then must inform the customers that they cannot directly bill the customers, the perception is that the EGS is somehow incompetent or incapable of performing the most rudimentary of functions associated with the sale of products and services. In a world where any person can place an item for sale on eBay and set up a method by which the purchaser can pay, or an individual can sell jewelry from her home and issue an invoice almost immediately to the purchaser, it surely strikes customers as

problematic that their supplier of energy services is unable to handle the most basic billing functions.

Besides these perception problems – which are very real barriers to the development of the competitive retail market – using the UCB to bill for smart-meter related services and EGS non-basic charges is not the solution for several reasons. Enhanced use of UCB would strengthen the monopoly consolidated billing status currently enjoyed by EDCs, cementing even further their role in the consumer’s mind as “the energy company.” Further, as innovative products and services would be developed by EGSs and billed through UCB, customer confusion would be even greater than it is now where the largest portion of the bill is due to charges of the non-billing entity.

Additionally – and equally importantly – utility bills/billing systems do not have the flexibility to allow for pricing plans enabled by smart meter data or other product innovations offered by EGSs. Because the existing EDC billing systems are designed for tariffed utility services, they simply cannot accommodate the plethora of billing needs of multiple EGSs. It is not economically feasible for the EDCs to continually update their billing systems to accommodate the changing needs of the competitive marketplace. Moreover, EGSs - as the entity chosen by the customer to supply generation services – should not be dependent on the utility to bill for these services. Utilities have no need to know what value added services EGSs are offering or to be told the charges that are being imposed by EGSs for those services.

b. Unbundling of Billing Services

The Commission seeks comments on the unbundling of billing services that would include providing open, non-discriminatory access to the EDC’s billing system to EGS and other billing entities at tariffed prices and asks whether other unbundling models are possible. It is the Coalition’s view that the only unbundling of billing services that should be considered by the Commission is SCB implementation. EGSs are not seeking open, non-discriminatory access to

EDC's billing systems or any other form of unbundled billing models. In the same way that generation services were unbundled from transmission and distribution services, so that EGSs would be able to sell supply directly to end-users, the Coalition is seeking the unbundling of billing services from transmission and distribution services so that EGSs may directly bill end-users. Gaining access to the EDC's billing system would not address any of the problems that the Coalition has identified with UCB. Gaining the ability to send consolidated bills to customers – in the same way that EDCs currently do and would continue to do – is what is necessary for the Coalition to invest in Pennsylvania to bring innovative products and services to consumers participating in the competitive retail market and to those who have yet to be offered a product or service that is tailored to their own individual needs.

When an entity bills an end-user, it not only forges a long-term relationship through that monthly touch point and demonstrates to the customer that it is capable of properly billing for its products and services, the billing entity also learns more about the customer. The billing entity knows when the customer typically pays the bill, how the customer pays the bill, if the customer pays the bill in installments or all at once and other details that assist the entity in devising solutions that are aimed at that particular customer's payment patterns.

c. Unbundling of Other Services

The Commission solicits feedback on other services that may possibly be unbundled. The Coalition has not identified any such services. In the energy industry, unbundling typically involves generation, transmission, distribution, billing and metering services. Through unbundling billing and enabling SCB, the Commission can take the natural and necessary next step. Having taken great strides in the deployment of smart meters and giving EGSs access to the data from smart meters, it is critical that Pennsylvania takes the next step in the continuum of enabling EGSs

to use that data to bill customers for the innovative products and services of the type that are currently being offered in Texas and others that cannot even be yet imagined.

d. Third Party Billing Agents

The Commission seeks comments seeking third party billing agents, such as EGSs, or an independent billing agent in place of UCB or SCB. It is unclear to the Coalition why the Commission would have an interest in allowing third party or independent billing agents to provide consolidated bills to customers rather than permitting the EGSs providing generation supply services to directly bill their own customers for their charges as well as the delivery fees of the EDC. In the Coalition’s view, it would not be worthwhile to pursue this option, particularly in the absence of any entities seeking this opportunity.

III. CONCLUSION

Based upon the foregoing, NRG Energy, Inc. (“NRG”), Direct Energy Services, LLC (“Direct”), ENGIE Resources LLC (“ENGIE”), Interstate Gas Supply, Inc. d/b/a IGS Energy (“IGS”), and Just Energy Group, Inc. (“Just Energy”) respectfully request that the Commission issue an Order announcing its determination to implement supplier consolidated billing by a date certain and launching the necessary processes to accomplish its directives.

Respectfully submitted,



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