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August 24, 2018

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor  
Harrisburg, PA 17120

**VIA ELECTRONIC FILING**

**RE: *En Banc* Hearing on Supplier Consolidated Billing;  
Docket No. M-2018-2645254**

Dear Secretary Chiavetta:

Attached for filing with the Pennsylvania Public Utility Commission are the Reply Comments of Met-Ed Industrial Users Group, Penelec Industrial Customer Alliance, Philadelphia Area Industrial Energy Users Group, PP&L Industrial Customer Alliance, and West Penn Power Industrial Intervenors in the above-captioned proceeding.

If you have any questions concerning this matter, please contact the undersigned. Thank you.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By

A handwritten signature in blue ink that reads 'Alessandra I. Hylander'.

Alessandra Hylander

Enclosure

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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

*En Banc* Hearing on Implementation :  
of Supplier Consolidated Billing : Docket No. M-2018-2645254  
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**REPLY COMMENTS OF THE  
MET-ED INDUSTRIAL USERS GROUP,  
PENELEC INDUSTRIAL CUSTOMER ALLIANCE,  
PHILADELPHIA AREA INDUSTRIAL ENERGY USERS GROUP,  
PP&L INDUSTRIAL CUSTOMER ALLIANCE, AND  
WEST PENN POWER INDUSTRIAL INTERVENORS**

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Dated: August 24, 2018

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## I. INTRODUCTION

On March 27, 2018, the Pennsylvania Public Utility Commission ("Commission" or "PUC") issued a Notice of *En Banc* Hearing on Implementation of Supplier Consolidated Billing ("SCB") ("Initial Notice").<sup>1</sup> The purpose of the *En Banc* Hearing was for the Commission to seek information about the legality and appropriateness of implementing "SCB" by electric generation suppliers ("EGS") in Pennsylvania.<sup>2</sup> The Initial Notice provided a discussion outline for the *En Banc* Hearing and established a time period for stakeholders to submit Comments to the Commission. Pursuant to the Initial Notice, many stakeholders filed Comments with the Commission on or before May 4, 2018.

On May 14, 2018, the Commission issued a second Notice of *En Banc* Hearing on Implementation of Supplier Consolidated Billing, announcing two hearing dates and opening a period for Reply Comments.<sup>3</sup>

On June 14 and July 12, 2018, the Commission conducted the *En Banc* Hearing, receiving live testimony from many stakeholders on the legal and practical implications of implementing SCB in Pennsylvania.

Accordingly, the Met-Ed Industrial Users Group ("MEIUG"), the Penelec Industrial Customer Alliance ("PICA"), the Philadelphia Area Industrial Energy Users Group ("PAIEUG"), the PP&L Industrial Customer Alliance ("PPLICA"), and the West Penn Power Industrial

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<sup>1</sup> *Notice of En Banc Hearing on Implementation of Supplier Consolidated Billing*, Docket No. M-2015-2518883 (Mar. 27, 2018).

<sup>2</sup> The Initial Notice invited participants to address the following questions: (1) whether SCB is legal under the Public Utility Code and Commission regulations; (2) whether SCB is appropriate and in the public interest as a matter of policy; and (3) whether the benefits of implementing SCB outweigh any costs associated with implementation. See *Notice of En Banc Hearing on Implementation of Supplier Consolidated Billing*, Docket No. M-2015-2518883 (Mar. 27, 2018).

<sup>3</sup> The Initial Notice requested Reply Comments by July 27, 2018; but the Notice issued May 14, 2018, updated the due date for Reply Comments to August 24, 2018.

Intervenors ("WPPII") (collectively, the "Industrials") respectfully submit the following Reply Comments.

## II. COMMENTS

The Industrials are comprised of large commercial and industrial customers located in the Commonwealth of Pennsylvania that use significant amount of electricity in their operations ("Large C&I Customers"). Large C&I Customers contribute substantially to Pennsylvania's economy by providing jobs, investing in their local communities, and providing the revenue basis to support a significant portion of Pennsylvania's utility infrastructure.

Electricity bills comprise a large share of Large C&I Customers' operating and manufacturing costs. Due to their significant energy usage profiles, Large C&I Customers generally shop for electricity and rely on EGSs to provide them with generation supply. Policy developments affecting customers' relationships with EGSs or Electric Distribution Companies ("EDCs") can have a significant impact on Large C&I Customers. As a result, the Industrials provide the following Reply Comments to set forth Large C&I Customers' positions regarding SCB.

### A. **The Commission must carefully balance the potential costs and risks of SCB with the potential benefits.**

In the *En Banc* Hearing, the EGSs testified that SCB would facilitate enhanced options and services for customers, while also improving EGS-customer relationships. Conversely, EDCs provided testimony regarding the costs to implement SCB, while other parties warned of the potential of reduced protections for customers.<sup>4</sup>

As with any regulatory action, the Commission's decision whether to move forward with SCB must balance the potential costs and risks with the potential benefits. The Industrials

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<sup>4</sup> For example, direct costs associated with SCB could include software changes for EDCs, EDC costs to accommodate the EGSs' role in the termination process, and additional oversight costs to the Commission.

acknowledge that SCB may be attractive to some customers, while others are satisfied with the current billing options. At the same time, the Commission must evaluate each foreseeable cost or risk of SCB and carefully consider whether those costs and risks of implementing SCB can be mitigated by consumer protections or other Commission regulations. One such consumer protection includes requiring EGSs seeking to utilize SCB to assume responsibility for all costs that occur due to the implementation of this additional billing method.

**B. The choice of billing method must remain with the customer.**

If the Commission decides to implement SCB, the Industrials emphasize that the choice of billing must always remain with the customer. The Industrials do not believe SCB can be legally "imposed" on a customer against the customer's will.

The most essential means of protecting a customer's right to choose a billing method is to require EDCs to continue to make billing services available to their customers. The EDCs must continue to offer utility consolidated billing ("UCB") and dual billing, as those methods are clearly set forth in the Public Utility Code.<sup>5</sup>

The Industrials believe customer choice must remain central to any SCB policy determination. If a customer chooses SCB, that customer must be able to return to dual billing or UCB upon request. Even if a majority of an EDC's customers were to choose SCB, the EDC must provide billing services upon request. The Industrials respectfully request that the Commission reiterate this point in any SCB-related policy statement or regulation.

**C. Billing disputes regarding regulated activity must remain under the jurisdiction of the Public Utility Commission.**

Distribution service in Pennsylvania is a regulated activity under the Public Utility Code. To date, EDCs have always billed customers for distribution service through one of the two billing

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<sup>5</sup> 66 Pa.C.S. § 2807(c).



methods mandated by statute. As a result, any customer who has been aggrieved due to a billing dispute can raise this issue with the Commission, as the Commission would have jurisdiction regarding such billing disputes.

While SCB may be permissible under the Public Utility Code, it is distinct from UCB and dual billing in that it would be a creature of regulation. With SCB, *regulated* services would be billed by *unregulated* entities (EGSs), which are not necessarily subject to the same level oversight as regulated public utilities. As a result, questions could arise as to whether an SCB dispute, involving distribution-related charges, would fall under the jurisdiction of the PUC.

It is imperative that the Commission maintain full oversight over the billing of regulated services. Although SCB would result in EDCs no longer directly billing every customer, customer billing remains a statutory function of the Public Utility Code. As such, the Commission should be clear in any SCB-related regulation or policy statement that billing disputes for regulated charges remain as firmly within PUC jurisdiction as they do with dual billing or UCB.<sup>6</sup>

**D. EGSs not offering SCB must not be placed at a competitive disadvantage.**

The Industrials understand the potential benefits of SCB as presented by the EGSs and recognize that SCB could potentially be an attractive billing option to some customers. Comments submitted by Calpine in the above-captioned docket, however, raise the concern that EGSs that do not offer SCB could be placed at a competitive disadvantage due to any collection tools that the Commission would allow for EGSs using SCB.<sup>7</sup> In addition, Calpine notes "not only do the mechanics of SCB need to be fully considered and vetted before implementation . . . but the Commission, more importantly, must weigh the cost allocation and oversight ramifications of SCB."<sup>8</sup> Calpine adds, "With respect to cost allocation in particular, it is imperative that *all* direct

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<sup>6</sup> See generally 66 Pa.C.S. §§ 1509, 2807, 2809.

<sup>7</sup> Comments of Calpine Energy Solutions, p. 2, Docket No. M-2018-2645254 (filed May 10, 2018).

<sup>8</sup> *Id.* at 2-3.

and indirect costs of SCB be identified and allocated exclusively to those suppliers electing to use or alter an EDC's billing system to their own company's benefit."<sup>9</sup>

The Industrials agree with Calpine's concern. Customers and EGSs that want SCB must be responsible for the costs to implement and maintain SCB. The costs should not be recovered on a non-bypassable basis, and EGSs not offering SCB should not be placed at any artificial disadvantage. To do so would undermine the vibrant market that the Commission has actively fostered for over two decades.

**E. The Commission should establish guidelines on EDC corporate communications.**

In their Comments, the EGSs raise concerns about EDCs using utility billing to sell non-related services (*e.g.*, security systems, HVAC) to customers. The EGSs also object to EDCs using customer newsletters to highlight employee volunteerism and other "pro-image" items.<sup>10</sup>

To the extent EDCs are using ratepayer-funded communication tools (such as utility bills) to promote affiliated competitive businesses, this is an inappropriate use of the regulated billing system. Ratepayers should not be asked to fund advertisements or other communications that inure to shareholders' bottom line. The Commission should establish guidelines for what EDC corporate communications can be sent with an EDC bill.<sup>11</sup> EGSs utilize their own funds to offer additional services or advertise for affiliated companies; EDCs should be held to the same standard.

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<sup>9</sup> *Id.* at 3.

<sup>10</sup> Electric Generation Supplier Coalition for Supplier Consolidated Billing Comments at 44-46.

<sup>11</sup> The Industrials note that in Columbia Gas of Pennsylvania's 2018 base rate proceeding, the Natural Gas Supplier ("NGS") Parties and Direct Energy Business, LLC, Direct Energy Services, LLC, and Direct Energy Business Marketing, LLC argued that Columbia's billing services were discriminatory because Columbia allowed former affiliates, on an exclusive basis, to utilize Columbia's billing services. *See* Main Brief of the Natural Gas Supplier Parties, p. 5, *Columbia Gas of Pennsylvania*, Docket No. R-2018-2647577 (filed Aug. 16, 2018); *see also* Main Brief of Direct Energy Business, LLC, *et al.*, p. 1, *Columbia Gas of Pennsylvania*, Docket No. R-2018-2647577 (filed Aug. 16, 2018). As of the filing of these Reply Comments, the parties are still in the briefing stage.

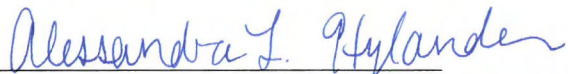


### III. CONCLUSION

WHEREFORE, the Met-Ed Industrial Users Group, the Penelec Industrial Customer Alliance, the Philadelphia Area Industrial Energy Users Group, the PP&L Industrial Customer Alliance, and the West Penn Power Industrial Intervenors respectfully request that the Pennsylvania Public Utility Commission consider these Reply Comments in evaluating any policy statement or regulation regarding supplier consolidated billing.

Respectfully Submitted,

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