

ORDER NO. 89116

IN THE MATTER OF THE PETITION OF
NRG ENERGY, INC., INTERSTATE GAS
SUPPLY, INC., JUST ENERGY GROUP,
INC., DIRECT ENERGY SERVICES, LLC
AND ENGIE RESOURCES LLC FOR
IMPLEMENTATION OF SUPPLIER
CONSOLIDATED BILLING FOR
ELECTRICITY AND NATURAL GAS IN
MARYLAND

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BEFORE THE
PUBLIC SERVICE COMMISSION
OF MARYLAND

CASE NO. 9461

ORDER AUTHORIZING SUPPLIER CONSOLIDATED BILLING

Before: Jason M. Stanek, Chairman
Michael T. Richard, Commissioner
Anthony J. O'Donnell, Commissioner
Odogwu Obi Linton, Commissioner
Mindy L. Herman, Commissioner

Issued: May 7, 2019

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I. Introduction

On September 7, 2017, Petitioners NRG Energy, Inc.; Interstate Gas Supply, Inc. d/b/a IGS Energy; Just Energy Group, Inc.; Direct Energy Services, LLC; and ENGIE Resources LLC (collectively, the “Petitioners¹”) requested that the Maryland Public Service Commission (“Commission”) issue an order mandating the implementation of Supplier Consolidated Billing (“SCB”) as a billing option available to customers of competitive licensed retail electricity and natural gas suppliers. Petitioners also requested that the Commission adopt certain policy recommendations and elements related to SCB and establish a rulemaking proceeding and workgroup to facilitate the drafting of new and revised Code of Maryland Regulations (“COMAR”) provisions needed to implement SCB. In conjunction with the Petition to implement SCB, Petitioners requested that the Commission grant qualified SCB providers the authority to direct utilities to disconnect customers for nonpayment of bills. In this Order, the Commission (i) finds that it has authority to require the implementation of SCB and concludes that implementing SCB now will expand supplier offerings in the State for the ultimate benefit of retail customers; (ii) provides a process for implementation of SCB; (iii) requires certain qualifications for SCB providers; (iv) denies Petitioners’ request for authority to direct service termination for nonpayment; (v) addresses purchase of receivables and bad debt; (vi) requires certain consumer protection and customer education provisions; and (vii) directs the Staff to

¹ Petitioners state that collectively, they serve between 21.4% and 24.5%—approximately 110,000 customers—of Maryland’s shopping residential and small commercial electricity customers. Petitioners Reply Comments at 2.

convene SCB workgroups to address SCB issues, including cost recovery. Accordingly, the Commission directs the SCB workgroups to resolve the SCB implementation details.

II. Procedural History

On September 7, 2017, Petitioners filed a Petition for Implementation of Supplier Consolidated Billing for Electricity and Natural Gas in Maryland (“Petition”). Petitioners seek a Commission Order allowing SCB in Maryland and the opening of a rulemaking process to develop the necessary regulatory scheme to support implementation. Under their SCB proposal, Petitioners state that qualified suppliers “would be responsible for billing and collecting from the customer for both the supplier’s services and the utility’s distribution charges.”² SCB would be available as a third billing option, in addition to utility consolidated billing (“UCB”)³ and dual billing.⁴ Petitioners’ SCB proposal includes provisions for SCB provider qualifications, purchase of receivables (“POR”), authority to disconnect for nonpayment, consumer education, and operational issues.

² Petition at 12.

³ UCB is authorized for electric customers pursuant to COMAR 20.53.05 and for gas customers pursuant to COMAR 20.59.05. Under this billing method, the utility issues a single bill on behalf of the utility and the supplier that includes utility charges such as distribution, related taxes, and surcharges, and for supplier charges, such as transmission and commodity supply. COMAR allows the utility the choice of offering UCB by either purchase of the supplier receivables for commodity and transmission on a specified schedule or application of the customer payment to the supplier receivable and the utility charges on a prorated basis. If the receivables have been purchased, they become the property of the utility, which may terminate service for nonpayment of all charges, including the purchased receivables. No utility currently offers UCB through prorated payments.

⁴ For dual billing, the utility issues a bill to the customer for distribution services and related taxes, and surcharges, while the customer’s retail supplier renders a bill for any commodity supplied plus related transmission charges incurred during the same billing period. If payment is not made, the retail supplier may return a customer to standard offer service (for electric) or sales service (for gas), subject to the terms of the supplier’s contract with its customer. The utility may terminate distribution service for nonpayment as provided by COMAR but not for nonpayment of retail commodity service obligations. Staff Comments at 1.

On September 15, 2017, the Commission docketed the Petition as Case No. 9461 and requested comments from stakeholders and interested parties. On November 15, 2017, the Commission received comments from 17 different individuals or organizations.⁵ On February 6, 2018, Petitioners filed reply comments (“Petitioners Reply Comments”).⁶ On February 20 and 21, 2018, the Commission held a legislative-style hearing on this matter and heard from Petitioners, Maryland’s gas and electric companies,⁷ retail suppliers, and government representatives.⁸ Following the hearing, the Commission allowed parties to file comments in response to Petitioners Reply Comments. Six parties filed reply comments on March 7, 2018.⁹

On May 24, 2018, the Commission issued a briefing schedule to address the question of whether the Commission has authority to empower SCB providers to direct utilities to disconnect customers for nonpayment of non-utility obligations and other related

⁵ Deca Energy Inc. (“Deca”), ML# 217801; Maryland House of Delegates Dereck E. Davis, ML# 217795; Office of Staff Counsel (“Staff”), ML# 217832; The Potomac Edison Company (“Potomac Edison”) and Southern Maryland Electric Cooperative (“SMECO”), ML# 217816; Maryland Office of People’s Counsel (“OPC”), ML#217834 (errata filed at ML# 217850); Baltimore Gas and Electric Company (“BGE”), Potomac Electric Power Company (“Pepco”) and Delmarva Power & Light Company (“Delmarva”) (collectively, the “Joint Utilities”), ML# 217831; Columbia Gas of Maryland, Inc., ML# 217830; Maryland Energy Administration (“MEA”), ML# 217833; Drift Marketplace, ML# 271829; Montgomery County, Maryland, ML# 217810; National Energy Marketers Association (“NEMA”), ML# 217805; Retail Energy Supply Association (“RESA”), ML# 217824; Crius Energy, ML# 217807; WGL Energy Services, Inc. (“WGL Energy”), ML# 217813; Stream Energy, ML# 217806; Calpine Energy, ML# 217827; Maryland Energy Marketer’s Coalition (“MEMC”), ML# 217821.

⁶ ML# 218872.

⁷ BGE, Pepco, and Delmarva, and Potomac Edison and SMECO.

⁸ MEA, Montgomery County, and OPC.

⁹ OPC, ML# 219334; MEA, ML# 219339; Montgomery County, ML# 219331; BGE, ML# 219324; Calpine Energy Solutions, ML# 219333; PE, ML# 219325.

issues.¹⁰ Parties filed initial and reply briefs on June 14, 2018, and June 28, 2018, respectively, including OPC,¹¹ Deca,¹² Potomac Edison/SMECO,¹³ RESA,¹⁴ Joint Utilities,¹⁵ WGL Energy,¹⁶ Petitioners,¹⁷ and Staff Counsel.¹⁸

III. Legal Authority and Policy Rationale for Authorizing SCB

A. Party Comments

1. Petitioners

Petitioners contend that numerous benefits will flow from implementation of SCB in Maryland. For example, Petitioners claim that SCB will encourage innovative products and services and incentivize suppliers to provide a suite of value-added and bundled services.¹⁹ Specifically, Petitioners assert that SCB will enable suppliers to provide value-added services such as home security, HVAC maintenance, surge protection, demand response, energy efficiency services, and monitoring and smart thermostats, all contained within a single bill.²⁰ SCB will also enable suppliers to offer innovative pricing plans,

¹⁰ Specifically, the Commission asked: (i) Under the PUA [Public Utilities Article], absent additional legislative change, does the Commission have the authority to empower SCB providers to direct utilities to disconnect customers for nonpayment of non-utility obligations?; (ii) If the right of SCB providers to direct termination of service is consistent with the PUA, are there other provisions of the PUA that must be amended to make the rights and obligations of SCB providers consistent with those of utility prior to the implementation of SCB?; and (iii) Does the PUA require that any customer disconnected from retail supplier service be returned to utility-administered standard offer service, irrespective of when or if the customer repays any outstanding obligations to the SCB provider that directed the customer's disconnection?

¹¹ ML# 220898 and 221008.

¹² ML# 220889, no reply brief filed.

¹³ ML# 220892 and 221081.

¹⁴ ML# 220890 and 221086.

¹⁵ ML# 220895 and 221083.

¹⁶ ML# 220900 and 221089.

¹⁷ ML# 220894 and 221082.

¹⁸ ML# 220897 and 221016.

¹⁹ Petition at 6–7.

²⁰ Petitioners assert that UCB does not permit suppliers to include non-commodity products in the consolidated bill, requiring suppliers to separately bill any value-added service. They claim that outcome is suboptimal because customers prefer receiving only one consolidated bill. Petition at 27.

including pre-paid bills and flat utility bills that charge a single, combined price for all energy consumed during the billing period.²¹ Petitioners note that in Texas, where SCB is already available, suppliers also offer time-of-use rates, declining rate, inclining rate, demand response, free nights plans, and free weekend plans, as well as products directed towards net energy metering and solar power.²² Petitioners state that these products generally involve web or smartphone apps to monitor usage, with some suppliers able to break down the dollar amount of the bill by categories such as heating and cooling, refrigerator, and washing machine.

By facilitating a direct relationship between suppliers and their customers, Petitioners maintain that SCB will remove barriers to entry and help grow the consistently low residential shopping rate for residential electric and gas customers in Maryland.²³ The direct billing relationship will help suppliers establish brand identity and clarify their role with customers, who otherwise tend to feel they are customers of the utility, regardless of their retail supplier.²⁴ In that regard, Petitioners assert that SCB may help reduce customer complaints stemming from confusion over who is the customer's supplier.²⁵ Petitioners

²¹ Petition at 24. Petitioners state that in order to offer a flat bill, they would absorb any increase in distribution rates stemming from the utility instead of passing those increases on to their customers.

²² Petitioners Reply Comments at 15.

²³ Petition at 3 (citing the Commission's Electric and Gas Choice Enrollment Reports for March 2017, which provide that retail suppliers serve approximately 451,017 residential electric and 229,055 retail natural gas customers, representing shopping rates of 20.2% and 21.5%, respectively). The majority of residential customers remain on standard offer service or sales service.

²⁴ Petitioners assert that without SCB, customers tend to view supplier correspondence as "junk mail." Petition at 31.

²⁵ Petitioners assert that some customers have been served by retail suppliers for years and still express surprise that they are not on standard offer service. "The problem is that, for UCB, the bill comes from the utility, the customer sees the utility logo on the bill, and the customer pays the utility for his or her energy services, including the supplier's services. As a result, many customers assume they are utility supply customers even when they are not" Petitioners Reply Brief at 28.

conclude that the many benefits of SCB will encourage suppliers to augment their existing businesses in Maryland and inspire out-of-state suppliers to enter the State.²⁶

2. Other Retail Suppliers

RESA argues that SCB represents the critical next step towards achieving the policy goals of the Electric Choice Act and is an essential element of deregulation.²⁷ RESA also states that SCB is consistent with the policy goals of the Natural Gas Act. Noting the dramatic rise of Uber, Amazon, and Tesla, RESA maintains that these companies have in common a direct connection with their customers, which allows them to serve the customers' individual needs and preferences.²⁸ Similarly, NEMA states, "To a large extent, given the invisibility of electrons and natural gas particles and the infrequency of face-to-face interactions with the entity providing energy service, the consumer's perception of the product and service received is embodied in the bill itself."²⁹ In states that provide SCB, such as Texas, RESA states that surveys demonstrate that customers have a significantly higher satisfaction rate with their retail supplier than customers in jurisdictions without SCB.³⁰ Similarly, Stream Energy states that it has enhanced value to its customers in Texas and Georgia by directly billing them through SCB for several years.³¹ Absent SCB, RESA argues that suppliers are limited in their ability to differentiate their services.

²⁶ Petition at 2.

²⁷ RESA Comments at 4.

²⁸ RESA Comments at 5, 10–11.

²⁹ NEMA Comments at 4.

³⁰ RESA Comments at 6 (citing J.D. Power 2016 Retail Electric Provider Residential Customer Satisfaction Survey).

³¹ Stream Comments at 1. Petitioners state that collectively, they send out approximately 2.63 million supplier consolidated bills every month in Texas. Petitioners Reply Comments at 3.

RESA asserts that utility bills are rigid, because they accommodate only a fixed number of characters and “do not allow suppliers to customize their messaging, products, and services for customers.”³² That limitation requires some suppliers to send separate, supplemental communications to the customer to explain the supplier charges; these communications are inefficient and can cause customer confusion. Deficiencies like these create barriers to entry, inhibit the building of customer loyalty, and limit the ability of customers to understand the difference between utilities as distribution providers and suppliers as energy commodity providers.³³ Addressing the lack of supplier interest in SCB in previous years, RESA asserts that retail suppliers have become more sophisticated in their product development, customer research, and processing and communication of energy usage data, making now an ideal time to forge ahead with the SCB proposal.

Finally, RESA states that it supports maintaining the existing UCB model with the purchase of receivables program.³⁴ The billing options are not mutually exclusive models, and allowing both provides a greater variety of competitive offers for consumers. MEMC also asserts that SCB should be an option and not a requirement for suppliers, noting that for many smaller suppliers, the investment required to bill and collect from customers would be too high.³⁵

Deca and NEMA argue that implementing SCB will enhance the Maryland retail energy market by spurring innovation and ensuring greater product availability.³⁶ Deca

³² RESA Comments at 12.

³³ RESA Comments at 15–16.

³⁴ RESA Comments at 7, 16.

³⁵ MEMC Comments at 4.

³⁶ Deca Comments at 2; NEMA Comments at 2.

further maintains that Maryland’s General Assembly intended to provide the option of SCB to all consumers, including gas customers. WGL Energy asserts that the competitive retail energy market in Maryland is currently mature enough to support SCB.³⁷ Given improvements in technology, WGL Energy states that SCB delivered electronically, such as through email, would support improved data presentation for customers.³⁸

Although Calpine states that it is not opposed to the Petition, it notes that Maryland’s competitive retail supply market is robust and functioning well, especially for commercial and industrial customers.³⁹ Calpine asserts that the Commission should take a “do no harm” approach to SCB, by avoiding the creation of subsidies or interfering with successful dual billing programs between retail suppliers and their customers.

3. Joint Utilities

The Joint Utilities argue that through its previous orders, the Commission has already approved the SCB concept.⁴⁰ However, the Joint Utilities note that those orders also emphasize that no third-party billing of customers will occur until the Commission approves both the qualifications criteria for permitting such billing and the specific entities that will perform the billing.⁴¹ The Joint Utilities state that they support Petitioners’ efforts to create a robust Maryland retail energy market and that the SCB proposal could further that goal. However, the Joint Utilities caution that the customer experience in the new billing paradigm must not be adversely impacted.⁴² In order to address implementation

³⁷ WGL Energy Comments at 2.

³⁸ WGL Energy Comments at 3.

³⁹ Calpine Comments at 2.

⁴⁰ Joint Utilities Reply Comments at 1-2 (citing Case No. 8738, Order No. 73834 (Dec. 3, 1997) and its rehearing order, Case No. 8738, Order No. 74561 (Sept. 10, 1998); and Case No. 8738, Order No. 75722 (Oct. 29, 1999)).

⁴¹ *Id.* (citing Order No. 74561 at 45-46).

⁴² Joint Utilities Comments at 1-2.

issues, such as qualification criteria and customer protection, the Joint Utilities support creation of an SCB workgroup.

4. Potomac Edison and SMECO

Potomac Edison and SMECO argue that SCB is not authorized under existing law and may not be adopted without legislative change.⁴³ “SCB is simply not compatible with the Public Utilities Article as it currently exists.”⁴⁴ Potomac Edison and SMECO contend that even after passage of the Electric Choice Act, the Public Utilities Article (“PUA”) continues to recognize that a billing function would remain with public utilities. In addition, they argue that public utilities are subject to a number of reporting obligations—such as universal service and energy efficiency obligations—that would be difficult to comply with absent the billing function that public utilities currently maintain.⁴⁵ Potomac Edison and SMECO also claim that the Petition’s goal of a “direct billing relationship” with customers is already met under existing COMAR provisions, given that the regulations authorize dual billing. Retail suppliers may separately bill their customers for generation services through dual billing, and suppliers may bill separately for any new and innovative products through a separate bill, irrespective of whether customers participate in dual billing.⁴⁶ Potomac Edison and SMECO further argue that Petitioners’ analogies to Texas are inapplicable because Texas has a fundamentally different restructuring statute, where retail electric providers are responsible for the entire retail customer experience.

⁴³ Potomac Edison/SMECO Comments at 2-3.

⁴⁴ Potomac Edison/SMECO Reply Comments at 5.

⁴⁵ Potomac Edison/SMECO Comments at 5.

⁴⁶ Potomac Edison/SMECO Comments at 3 (referring to the right of retail suppliers to participate in UCB and to bill separately for new and innovative products such as alarm systems).

Maryland is unlike Texas because the utility's billing function in Maryland is clearly recognized under the PUA.⁴⁷

5. OPC

OPC acknowledges that the Customer Choice Act requires that the Commission adopt orders or regulations implementing competitive billing services, and that the Commission has previously stated that such services would include a form of SCB.⁴⁸ OPC further states it would actively participate in any Commission-ordered process discussing whether and how SCB can be implemented in Maryland.⁴⁹ However, OPC contends that the Commission “should focus squarely on how SCB can be implemented in a way that protects and benefits customers”⁵⁰ OPC argues that retail suppliers have consistently offered prices that are equivalent to or higher than the utility's standard offer service price, and that in order to duplicate the utilities' billing function, SCB providers will need to price their products even higher.⁵¹ For that reason, OPC questions Petitioners' proposal to bundle their electric price with other value-added services, arguing that the bundled service would “deprive consumers of information about the actual price of the energy commodity being purchased.”⁵²

⁴⁷ Potomac Edison/SMECO Reply Comments at 5.

⁴⁸ OPC Reply Comments at 2.

⁴⁹ OPC Comments at 1.

⁵⁰ OPC Comments at 7.

⁵¹ OPC Comments at 7-8.

⁵² OPC Comments at 8.

6. MEA

MEA contends that SCB was clearly contemplated by the General Assembly in its passage of the Electric Choice Act.⁵³ SCB is also referenced in supplier-coordination tariffs, early workgroup documents relating to restructuring, and several Commission orders following deregulation. MEA supports SCB for both electric and gas suppliers as the next logical step for Maryland to fully implement the Electric Choice Act and the Natural Gas Act.⁵⁴ MEA argues that SCB will empower customers to choose their energy services and control their energy usage. It may also drive product differentiation, new technological offerings and billing options, and facilitate State goals such as energy efficiency. SCB may also help unlock additional benefits of the advanced metering infrastructure deployed by utilities in the last several years.⁵⁵ MEA argues that supplier reliance on UCB in the past had the unintended consequence of distancing customers from their electricity supplier, limiting the development of relationships between supplier and customer, and stunting the progress of the retail market. Although MEA acknowledges that retail suppliers were content to utilize UCB in the past, MEA asserts that because several suppliers have now expressed a strong desire to offer competitive billing services, the time is right for the Commission to implement SCB.⁵⁶

⁵³ MEA Comments at 4 (referencing PUA § 7-511(a), which sets forth a schedule for the commencement of competitive billing).

⁵⁴ MEA Comments at 2.

⁵⁵ MEA Comments at 3-4.

⁵⁶ MEA Comments at 5-6.

7. Staff

Staff states that it is generally supportive of SCB and that the provisions of the Electric Choice Act are consistent with the conclusion that the General Assembly intended some form of SCB to be implemented. Staff further observes that the Commission, through past orders, has provided significant support for the future implementation of SCB.⁵⁷

B. Commission Decision

The Commission finds that the PUA provides ample authority for it to authorize the implementation of SCB for retail suppliers of electricity and gas. The Electric Choice Act contains multiple references to competitive billing and broad authority for the Commission to achieve the goals of restructuring the electric industry. For example, PUA § 7-505(b)(5)(i) directs the Commission to unbundle the electric utilities' rates, charges and services. As part of unbundling, § 7-511 requires the implementation of competitive billing.⁵⁸ In particular, § 7-511(a) provides that “[e]xcept for electric cooperatives and municipal electric utilities, competitive billing shall begin on July 1, 2000.” Subsections 7-511(b) and (c) set timetables for competitive metering for large customers and all other customers. Section 1-101(j) defines the term “electricity supplier” to include a person “who sells ... competitive billing services.” The Commission, in turn, has defined the term “competitive billing services” to include “(a) [i]nvoicing for electricity supply or electricity supply services to a retail customer; and (b) [p]rocessing of

⁵⁷ Staff Comments at 6.

⁵⁸ Nevertheless, PUA § 7-511(a) exempts from the requirement to implement competitive billing electric cooperatives and municipal electric utilities. *See* Tr. at 229-30 (McDougall). Accordingly, this Order does not require the implementation of SCB for electric cooperatives or municipal electric utilities.

payment for electricity supply or electricity supply services to a retail customer.”⁵⁹ Moreover, the Commission has defined “electricity supply services” to include “the retail procurement of ... billing ... or other competitive services traditionally provided by an electric company.”⁶⁰

Previous Commission orders have also acknowledged that SCB is authorized under the Customer Choice Act. On October 29, 1999, for example, the Commission issued Order No. 75722, which found that the Act authorized SCB as well as independent third-party billing. The Order noted: “The customer may receive a single bill from either the local distribution company (“LDC” or “utility”) or the competitive electricity service provider (“ESP” or “supplier”) that includes charges for both transmission and distribution service and electricity supply.”⁶¹ On January 12, 2000, the Commission approved a Model Electricity Supplier Coordination Tariff, which included a placeholder under section 12.0 for details relating to how the utility would implement SCB.⁶² Following issuance of that Order, each of Maryland’s investor-owned utilities filed supplier coordination tariffs that addressed numerous components of SCB. The Commission subsequently approved the supplier coordination tariffs with SCB provisions as submitted in accordance with the

⁵⁹ COMAR 20.51.01.02(B)(7).

⁶⁰ COMAR 20.51.02(B)(11).

⁶¹ *In the Matter of the Commission’s Inquiry into the Provision and Regulation of Electric Service*, Case No. 8738, Order No. 75722 (Oct. 29, 1999).

⁶² *In the Matter of the Commission’s Inquiry into the Provision and Regulation of Electric Service*, Case No. 8738, Order No. 75890 (Jan. 12, 2000).

Customer Choice Act.⁶³ In 2010, the Commission denied a proposal to remove references to SCB from the utilities' supplier coordination tariffs, finding that SCB language should be kept in the tariffs as an option for the future.

The Customer Choice Act and the Commission regulations and decisions that followed demonstrate that the General Assembly and the Commission intended to achieve competitive billing through restructuring. The Commission finds today that SCB, as described in the Petition and this Order, is consistent with the goals and mandates of the Customer Choice Act, as well as its definition of competitive billing.

The Commission also finds that SCB is consistent with the Natural Gas Act. Although the Natural Gas Act did not address competitive billing with the specificity of the Customer Choice Act, it did establish requirements relating to the competitiveness of retail gas supply and gas supply services markets. Section 7-604(a)(2) required the Commission to adopt consumer protection orders or regulations for gas suppliers that "provide for ... billing practices and procedures." Additionally, § 7-606 authorized the Commission to adopt any orders or regulations necessary and in the public interest to implement the provisions of the Natural Gas Act.

⁶³ *In the Matter of the Baltimore Gas and Electric Company's Proposed: (a) Stranded Cost Quantification Mechanism; (b) Price Protection Mechanism; and (c) Unbundled Rates*; Case No. 8794, Case No. 8804, Order No. 76180 (May 17, 2000); *In the Matter of the Potomac Electric Power Company's Proposed: (A) Stranded Cost Quantification Mechanism; (B) Price Protection Mechanism; and (C) Unbundled Rates. (Supplier Coordination Tariff and Schedule 1 Charges, Supplier Coordination Agreement, and Electronic Data Interchange and Trading Partner Agreement)*, Case No. 8796, Order No. 76235 (June 8, 2000); *In the Matter of the Delmarva Power and Light Company's Proposed: (A) Stranded Cost Quantification Mechanism; (B) Price Protection Mechanism; and (C) Unbundled Rates. (Supplier Tariff, Supplier Coordination Agreement, Electronic Data Interchange Agreement and Schedule 1 Fees)*, Case No. 8795, Order No. 76227 (June 6, 2000); and *In the Matter of the Potomac Edison Company's Proposed: (A) Stranded Cost Quantification Mechanism; (B) Price Protection Mechanism; and (C) Unbundled Rates. (Supplier Coordination Tariff and Schedule 1 Fees, Supplier Coordination Agreement, and Electronic Data Interchange and Trading Partner Agreement)*, Case No. 8797, Order No. 76231 (June 6, 2000).

After passage of the Natural Gas Act, the Commission established the Generic Gas Supplier Roundtable, which issued a report in 2001 addressing competitive billing.⁶⁴ The report found that the Natural Gas Act did not mandate the imposition of competitive billing, but that it did authorize it. Consistent with that understanding, WGL offered (and continues to offer) a form of SCB for retail natural gas. In Order No. 77245, the Commission found that it was not appropriate at that time to mandate SCB for gas choice programs, in part because of a lack of interest from retail suppliers. However, the Commission noted that its decision did not preclude a gas company whose service territory is open to choice from making competitive billing available within its service territory. Additionally, the Order provided: “If the Commission finds that the level of marketer/supplier support for supplier consolidated billing becomes significant, the Commission will reconsider the matter at that time”⁶⁵ The Commission also promulgated SCB regulations for natural gas that paralleled those used for electricity, in the event that suppliers came forward with proposals.⁶⁶

The instant Petition, and the retail suppliers who support it, demonstrate that suppliers are now interested in providing SCB, including to retail natural gas customers. As Staff observed, the Commission has attempted to treat electricity suppliers and gas suppliers identically, unless the law or industry practice requires otherwise.⁶⁷ Because SCB is consistent with the goals of the Natural Gas Act, the Commission directs that SCB be authorized for the benefit of natural gas customers in addition to electric customers.

⁶⁴ *In the Matter of the Commission's Inquiry into Gas Supplier Licensing and Consumer Protection (Competitive Billing)*, Case No. 8846, Order No. 77245 (Sept. 20, 2001).

⁶⁵ Order No. 77425.

⁶⁶ See COMAR 20.54.02.02(B)(7) for gas, and COMAR 20.51.02.02(B)(7) for electricity.

⁶⁷ See Staff Comments at 6.

Having found that it has the authority to order the implementation of SCB, the Commission determines that as a matter of policy, SCB represents the next logical step for Maryland to fully implement the Electric Choice Act and the Natural Gas Act. A direct relationship between retail suppliers and their customers resulting from direct billing could support the growth of retail competition in Maryland.

The Commission finds that the existing billing arrangements of UCB and dual billing should be augmented with SCB at this time. Utilizing UCB, suppliers are limited to a section of the utility's bill and limited in the number of characters they can use to describe their product as well as the products they are permitted to list. Dual billing requires the customer to receive multiple bills, an outcome customers generally dislike. Supplementing utility bills with offers for value-added products or services can be less effective for suppliers as some customers may view non-utility correspondence as junk mail. The number of customer complaints received by the Commission from customers professing surprise that they have been served by retail suppliers is an example of the confusion the current billing methods have engendered.⁶⁸ In contrast, SCB should assist suppliers in establishing brand identity and clarifying the products available to utility customers.

The decision to authorize SCB is consistent with the Commission's policies to promote competition and prepare the electric distribution system for the future. In PC44, the Commission reaffirmed its commitment to competitive markets by providing in its Statement of Guiding Principles: "Competitive markets are an integral part of Maryland's

⁶⁸ See Tr. at 145-46. (Greene); Tr. at 278-79 (McIntyre); Tr. at 305 (Blaser) ("The majority of the complaints are that customers say I didn't even know I was buying gas or electricity from you.").

electricity landscape that seek to promote innovation, reduce costs, and increase customers' choices."⁶⁹ In accordance with those goals, the proponents of SCB assert that it will incentivize the creation of new and innovative products. Petitioners and other retail suppliers have described new products and services referenced in a single consolidated bill that include home security, HVAC maintenance, surge protection, demand response, energy efficiency services, and smart thermostats. They have also proposed innovative pricing plans, including pre-paid bills, flat bills, time-of-use rates, inclining and declining rates, and products directed towards net energy metering and solar power.⁷⁰ SCB should facilitate the development of these innovative products and pricing plans and increase the number of Maryland households that shop for residential electric and gas supply offerings.

Immediately after deregulation, few retail suppliers expressed an interest in SCB.⁷¹ Given the filing of the instant Petition, however, the landscape has clearly changed. Petitioners and several other retail suppliers that have participated in this proceeding have expressed a strong desire to implement SCB. They have additionally demonstrated that over the last several years suppliers have become more sophisticated in new product development, customer research, and processing and communication of energy usage data. Therefore, the Commission finds it is now appropriate to proceed with the development of SCB.

⁶⁹ PC44, *In the Matter of Transforming Maryland's Electric Distribution Systems to Ensure that Electric Service Is Customer-Centered, Affordable, Reliable and Environmentally Sustainable in Maryland*, Jan. 31, 2017 Notice at 3.

⁷⁰ In referencing these innovative products and pricing plans, the Commission is not opining about the legality or appropriateness of any such product or pricing plan in Maryland.

⁷¹ See Tr. at 158 (Greene).

Finally, the Commission finds that SCB should be available to retail suppliers as an option, not a requirement, at this time. This Order does not mandate that any retail supplier adopt or offer SCB. For many small suppliers, the expense and time required to offer SCB may be prohibitive. Other suppliers may simply find SCB incompatible with their business models. The billing methods of UCB, dual billing, and SCB are not mutually exclusive options and should be available for qualified retail suppliers, at their election.⁷² Additionally, allowing all these methods provides a greater variety of competitive offers for consumers.

IV. Process for SCB Implementation

A. Party Comments

1. Petitioners

Petitioners requested a detailed and ambitious timeline for Maryland stakeholders to convene in a workgroup, promulgate regulations, and for utilities to implement SCB.⁷³ Specifically, Petitioners requested Commission decisions on a variety of implementation issues, including supplier qualifications to offer SCB, purchase of utility receivables, and consumer protections. Petitioners believe that early Commission guidance on these issues will streamline the workgroup process and prevent inefficiency and frustration.⁷⁴ Petitioners urged the Commission to address as many issues as possible at this preliminary stage.

⁷² Similarly, the Commission will not require any supplier to provide SCB, UCB, or dual billing at its customer's request. As SCB develops, customers will have the ability to shop between suppliers offering SCB, UCB, or dual billing, or elect to remain with their utility's standard offer service or sales service.

⁷³ Petition at 7-9.

⁷⁴ Petitioners Reply Comments at 48.

Petitioners outlined approximately four months for a workgroup to meet and submit proposed regulations; eight months for the Commission to consider the regulations, publish notice, receive comments and finalize the regulations; three months for the Commission to approve utility compliance plans; and finally, three additional months for the utilities to bring their systems into compliance.⁷⁵ Overall, this timeline would result in SCB being developed and available within 18 months of the Commission’s order on the Petition.

2. Joint Utilities

The Joint Utilities agree that a workgroup process will be necessary to develop several elements of the SCB implementation plan. Specifically, the Joint Utilities identified electronic communications protocols, model tariffs, supplier/utility agreements, and consumer education.⁷⁶ The Joint Utilities suggest creation of a new workgroup along the same model as the PC44 workgroups and suggest extending invitations to the relevant participants from PC44 and other stakeholders.⁷⁷ The Joint Utilities also express concern with Petitioners’ timeline, which only provides six months for implementation following completion of the rulemaking process. Following the adoption of regulations, the Joint Utilities anticipate 12—18 months for implementing the billing system changes necessary to accomplish a smooth transition to SCB.⁷⁸

⁷⁵ Petition at 8.

⁷⁶ Joint Utilities Comments at 7.

⁷⁷ Joint Utilities Comments at 7.

⁷⁸ Joint Utilities Comments at 6-7.

3. Staff

Staff does not recommend that the Commission address “any of the policy recommendations proposed by Petitioners at this time.”⁷⁹ Further, Staff does not support Petitioners’ schedule, contending that a schedule would be “premature.”⁸⁰ Instead, Staff argues that the Commission should direct a workgroup to address the ramifications of the SCB Petition and to present an SCB proposal for the Commission’s review at a later date. Staff notes that “SCB is complicated and retail choice issues are typically handled through a collaborative process with Commission guidance as needed.”⁸¹ Staff therefore recommends that the Commission wait to render a decision on the Petition until after “the Stakeholders have discussed the issue of SCB and its ramifications in order to present an SCB regime for Commission review.”⁸² After the workgroup’s proposal is reviewed by the Commission, Staff requests that the Commission convene a rulemaking where Staff would present a conceptual outline of SCB for approval consistent with any Commission guidance.⁸³ Shortly thereafter, with Commission approval of the outline, Staff would produce final regulations for consideration and adoption.⁸⁴ The only issue Staff believes is ripe for decision is whether suppliers can direct termination of service for nonpayment in the manner proposed by Petitioners, which Staff opposes.⁸⁵

⁷⁹ Staff Comments at 8.

⁸⁰ Staff Comments at 8.

⁸¹ Staff Comments at 7.

⁸² Staff Comments at 8.

⁸³ Staff Comments at 8.

⁸⁴ Staff Comments at 8.

⁸⁵ Staff Comments at 7 and 8.

4. Potomac Edison/SMECO

Potomac Edison and SMECO characterize the Petition’s request for approval of SCB followed by an ambitious workgroup schedule as a “cart before the horse” approach because it seeks to require Commission decisions before a workgroup process can “flesh out what is feasible and desirable.”⁸⁶ These utilities further identify the schedule as “fundamentally unworkable.”⁸⁷ The Comments cite the need to consider utility billing and customer service processes,⁸⁸ customer security concerns,⁸⁹ as well as implications for dispute resolution, complaint handling, and dissemination of required regulatory notices.⁹⁰ In light of all these considerations, Potomac Edison and SMECO ask the Commission to convene a workgroup *before* reaching a final decision on whether to allow SCB.⁹¹

Potomac Edison and SMECO also raise a number of additional implementation considerations. They cite a need to overhaul utility billing, operation, and customer service processes.⁹² In addition, Potomac Edison and SMECO identify the potential for impacts on “customer service functions, including dispute resolution, complaint handling, termination of service for non payment, and dissemination of required regulatory notices and other customer communications.”⁹³ Potomac Edison and SMECO express concern that implementation of SCB will have broad implications for utility operations beyond simply the data transactions necessary to provide billing information.

⁸⁶ Potomac Edison/SMECO Comments at 2, 9.

⁸⁷ Potomac Edison/SMECO Comments at 13.

⁸⁸ Potomac Edison/ SMECO Comments at 13

⁸⁹ Potomac Edison/SMECO Comments at 12.

⁹⁰ Potomac Edison/SMECO Comments at 8.

⁹¹ Potomac Edison/SMECO Comments at 13.

⁹² Potomac Edison/SMECO Comments at 13.

⁹³ Potomac Edison/SMECO Comments at 8.

5. OPC

OPC asks the Commission to refer “all issues related to SCB” to a Staff-facilitated workgroup.⁹⁴ OPC identified a need for the workgroup to address implementation issues, including the need for additional “application, licensing and consumer protection regulations.” Specifically, OPC notes the need for “more explicit requirements for technical and managerial competence” in a variety of areas.⁹⁵ OPC also requests complete reconsideration of the existing regulations on utilities’ purchase of supplier receivables (“Utility POR”).⁹⁶ OPC alleges that Utility POR may lead to unjust and unreasonable rates, and it imposes costs on ratepayers to support the debt of private supply companies.⁹⁷ OPC considers Petitioners’ proposed timeline as “inadequate.” Instead, OPC suggests that the Commission direct “Staff to submit interim quarterly reports as to the progress of the Work Group.”⁹⁸

B. Commission Decision

As noted above, a next step to continue the development of the Maryland retail supply market is to allow qualified suppliers to offer SCB. In order to streamline the workgroup process and prevent stakeholder deadlock on primary issues, the Commission determines in this Order it is appropriate to implement SCB in Maryland. The Commission also provides guidance on certain fundamental issues discussed below, including supplier qualifications, purchase of receivables and bad debt, and consumer protections. There is little value in forcing the stakeholders to continue to debate these preliminary issues,

⁹⁴ OPC Comments at 17.

⁹⁵ OPC Comments at 11

⁹⁶ OPC Comments at 12-14.

⁹⁷ OPC Comments at 14.

⁹⁸ OPC Comments at 17.

including whether SCB should be implemented at all. However, Staff and OPC are correct that the complexity of the SCB proposal does not lend itself to immediate implementation at this time, and interested stakeholders should have sufficient opportunity to consider the many implementation issues raised by the Petition, including unintended consequences. The process should therefore include sufficient time for stakeholders to develop positions, collect data, design business processes, configure electronic transactions, review similar programs in other states, and consider any other relevant matters that may arise. Any issues not specifically addressed in this Order may be raised within the workgroup process.⁹⁹

Accordingly, the Commission directs that a workgroup led by Staff be convened that is comprised of representatives of the retail suppliers, the utilities, OPC, MEA, and other interested stakeholders (“the SCB Workgroup”). The SCB Workgroup will have 60 days from the date of this Order to file a timeline for implementing SCB, including a procedural schedule with deliverables for Commission approval.¹⁰⁰ The Commission also directs Staff to form a Technical Implementation Workgroup (“TIWG”) in conjunction with the existing EDI workgroup to address technical issues pertaining to the implementation of SCB, including tariff issues related to gas and electric billing and the resolution of system differences between utilities and suppliers.

⁹⁹ The Commission, however, does not intend to reconsider its Utility POR program at this time and therefore denies OPC’s request on that issue.

¹⁰⁰ The SCB Workgroup should provide a proposed timeline for completing deliverables, such as developing a model supplier tariff for use by the utilities in their respective compliance filings to implement SCB; developing a model agreement between utilities and retail suppliers governing each entity’s obligations relating to SCB; establishing necessary EDI and XML protocols; and finalizing comprehensive rules related to supplier qualifications, purchase of receivables and bad debt, consumer protections, service quality issues such as customer complaints, the rights and obligations of suppliers to collect and hold customer deposits, the method of displaying utility charges, customer education, and cost recovery; in addition to any other necessary implementation details related to SCB.

V. SCB Implementation - Supplier Qualifications

A. Party Comments

1. Petitioners

The Petition provides a detailed outline of additional supplier qualifications, beyond the Commission’s supplier licensing requirements, that suppliers seeking to offer SCB should meet.¹⁰¹ This proposal is an attempt to satisfy prior Commission guidance that identified both POR and supplier qualifications as prerequisite decisions which must be settled before SCB implementation.¹⁰² Petitioners describe their proposed qualifications as “an attempt to balance the interests of customers, utilities, and suppliers to move the competitive market forward in a reasonable, thoughtful manner.”¹⁰³

Petitioners propose a broad range of qualifications related to financial security and managerial competence. Petitioners suggest financial security for both the participating utility and the Commission.¹⁰⁴ The enhanced technical and managerial competencies cover risk management, quality assurance, call center operations, billing, and credit and collections experience.¹⁰⁵ In addition, there are several requirements related to the SCB provider’s ability to provide a local office in Maryland, have a minimum of five years active experience, and have a minimum of 25,000 customers.¹⁰⁶ Finally, Petitioners suggest a supplier should offer a number of certifications, including its intent to comply with various COMAR requirements, to cooperate in data exchanges with the utility, and to

¹⁰¹ Petition at 13-16.

¹⁰² Petition at 41-42.

¹⁰³ Petitioners Reply Comments at 32.

¹⁰⁴ Petition at 13-14.

¹⁰⁵ Petition at 13-16.

¹⁰⁶ Petition at 14-15.

maintain an ongoing quality assurance process to evaluate randomly selected retrospective customer bills for accuracy.¹⁰⁷

2. Joint Utilities

The Joint Utilities do not take any position on the supplier qualification details provided in the Petition. However, they do identify additional “operational details” which must be addressed to fully understand the impacts of SCB on customers.¹⁰⁸ These include customers with different electric and gas suppliers, customers served by more than one supplier in a billing period, treatment of pre- and post-SCB debt, rate transparency, and treatment of customers upon a supplier’s default.

3. Potomac Edison/SMECO

Potomac Edison and SMECO strongly oppose the implementation proposals in the Petition related to supplier qualifications as potentially anticompetitive. Potomac Edison and SMECO note that the security, long-term presence, customer count, and call center requirements would favor suppliers with higher market share. This creates a concern that SCB, implemented in this manner, “has the potential to hobble other suppliers, or perhaps drive them from the Maryland market altogether[.]” Potomac Edison and SMECO do not propose alternative criteria to determine a supplier’s qualifications to offer SCB in Maryland.

¹⁰⁷ Petition at 14-16.

¹⁰⁸ Joint Utilities Comments at 4.

4. OPC

OPC notes that implementation of SCB will require participating suppliers to provide “considerably more direct” customer service functions for ratepayers.¹⁰⁹ Offering SCB in Maryland raises “additional financial, licensing and consumer protection concerns.”¹¹⁰ As such, OPC agrees with Petitioners that more stringent supplier qualifications are in order but does not address the specifics offered in the Petition. Rather, OPC suggests a full review of the Commission’s application and licensure requirements. The goal of this review would be to ensure specific documentation of a supplier’s ability to meet customer service requirements¹¹¹ and its financial ability to provide restitution for customers.¹¹²

5. MEA

MEA opposes the Petitioner’s request for enhanced qualifications for suppliers seeking to offer SCB. MEA describes the proposed qualifications as “too restrictive” and argues that “setting such a high bar would act as a barrier to entry into Maryland’s market and unduly protect established billing incumbents from competition.”¹¹³ MEA argues that the Commission’s existing supplier licensing qualifications are sufficient as they include financial requirements, technical and managerial competence, and compliance commitments.¹¹⁴ Further, market forces will be sufficient to ensure that suppliers provide

¹⁰⁹ OPC Comments at 11

¹¹⁰ OPC Comments at 11.

¹¹¹ OPC Comments at 11. These would include customer service support, billing, credit and collections, oversight of customer service functions, training in Maryland-specific requirements, and compliance oversight.

¹¹² OPC Comments at 12.

¹¹³ MEA Comments at 13.

¹¹⁴ MEA Comments at 13.

appropriate levels of service and consumer protections.¹¹⁵ Additional regulatory burdens on suppliers offering SCB would also be counterproductive to the goals of restructuring.¹¹⁶ Finally, MEA states that it is confident that customers can make informed decisions regarding energy supply offers with available information.¹¹⁷

6. Staff

Staff argues that the Commission should provide enhanced qualifications for suppliers offering SCB.¹¹⁸ However, Staff does not believe the Commission should “adopt any of the policy recommendations proposed by Petitioners at this time.”¹¹⁹ The Commission should wait to consider a full SCB regime presented following the workgroup process.¹²⁰

7. NEMA

NEMA supports the Petition’s proposed supplier qualifications and suggests that suppliers should be able to meet the qualification requirements through hiring corporate personnel who can demonstrate the requisite expertise.¹²¹ This recommendation is intended to mitigate the risk that stringent qualification requirements will act as a barrier to new market entrants who wish to offer SCB.¹²²

¹¹⁵ MEA Reply Comments at 5.

¹¹⁶ MEA Reply Comments at 5.

¹¹⁷ MEA Comments at 14.

¹¹⁸ Staff Comments at 8.

¹¹⁹ Staff Comments at 8.

¹²⁰ Staff Comments at 8.

¹²¹ NEMA Comments at 5.

¹²² NEMA Comments at 6.

B. Commission Decision

The Commission agrees with Petitioners, Staff, the utilities, and OPC that enhanced supplier qualifications for entities seeking to offer SCB are appropriate. The existing license requirements may not be adequate to ensure that suppliers seeking to offer this service will be able to meet customers' and the Commission's expectations. However, although the proposed qualifications in the Petition appear thorough, the Commission also shares NEMA and MEA's concerns that overly stringent requirements can create barriers to market entry that will unduly benefit incumbent suppliers.

As such, a comprehensive set of supplier qualifications that protects ratepayers while balancing market access for new entrants and the interests of both participating utilities and suppliers is necessary. Thus, while the Commission does not adopt the qualifications as currently presented, any proposed regulations should comprehensively address the capabilities necessary to ensure that these functions are performed on par with existing utility offerings. Further, the regulations should be tailored to demonstrate that a supplier can meet the rigorous demands of increased customer service and dispute resolution functions, complex billing requirements, and the quality assurance and record keeping necessary to handle utility charges that may contribute to potential utility disconnections. These regulations should be developed through the workgroup process to incorporate the varying stakeholder perspectives.

VI. Authority of SCB Providers to Disconnect Customers for Nonpayment

A. Party Comments

1. Petitioners

Petitioners request that the Commission grant to qualified SCB providers the authority to direct utilities to terminate service to customers who fail to pay their bills. The Petition outlines the following circumstances upon which an SCB provider would submit a disconnect directive to a utility: (i) nonpayment of a delinquent account; (ii) failure to comply with the material terms of a payment arrangement; (iii) failure to complete payment of a deposit, provide a guarantee of payment, or establish credit; or (iv) tendering payment for reconnection of service that is subsequently dishonored.¹²³ In order to allay concerns related to supplier-directed disconnections, Petitioners state that they will abide by strict supplier qualifications for offering SCB and that all SCB providers will comply with all regulations currently enforced against utilities regarding the disconnection of customers. Additionally, Petitioners clarify that they are not seeking the authority to terminate service for non payment of non-commodity or value-added services (such as home warranty).¹²⁴ Likewise, Petitioners are not requesting disconnection authority for the reasons requiring seven-days' notice contained in COMAR 20.31.02.04 (such as applications being made in a fictitious name), or the circumstances contained in COMAR 20.31.02.01 (defined as insufficient to support disconnection of service). Once a qualified SCB provider issues a directive to disconnect, the utility would have an opportunity to reject the request based

¹²³ Petition at 17.

¹²⁴ Petition at 19; Tr. at 101-102 (Donaho).

upon criteria contained in COMAR and would continue to be subject to the various temporary restrictions on termination contained in applicable regulations.

Petitioners argue that without the ability to direct disconnection, SCB suppliers would be unable to respond appropriately to nonpayment of bills, would be unable to manage their bad debt, and would lack a meaningful opportunity to collect unpaid balances from their non-paying customers. Petitioners further state that returning a customer to standard offer service without disconnection would be insufficient because once returned to such service, “there is little chance that the supplier will collect payment.”¹²⁵

2. Other Retail Suppliers

MEMC states that suppliers should be authorized to direct disconnection of customers for nonpayment, stating that the risk of disconnection represents the driving incentive to ensure payment and reduce bad debt risk.¹²⁶ RESA states that it is necessary to authorize suppliers to direct the disconnection of customers in order to meet the requirements of the Customer Choice Act contained in PUA § 7-505(b)(3) that prohibit undue preference in favor of the utility’s own electric supply.¹²⁷ RESA further comments that the General Assembly did not limit competition to electricity supply but provided for competition in “electricity supply services,” devoting an entire section of the Customer Choice Act to competitive billing services.¹²⁸ RESA states that the wide authority available

¹²⁵ Petitioners Reply Comments at 37.

¹²⁶ MEMC Comments at 5.

¹²⁷ RESA Initial Brief at 4.

¹²⁸ RESA Initial Brief at 4 (citing PUA § 7-511).

to the Commission to promulgate regulations furthering the intent of the Customer Choice Act empowers it to authorize suppliers to direct service termination.¹²⁹

Deca argues against the power of retail gas suppliers to disconnect customers for nonpayment, arguing that SCB should be limited to billing, collection, and customer service.¹³⁰ Deca contends that supplier-directed disconnects would “blur ... the difference between supply and delivery” of gas. Additionally, Deca states that “suppliers being responsible for leaving vulnerable populations without heat will not help advance development of competitive energy markets in Maryland.”¹³¹ Deca concludes that the Commission should provide suppliers with the ability to choose whether to initiate the disconnection process for nonpaying customers or refer the nonpaying customers to standard offer service.¹³²

WGL Energy states that a customer disconnected for nonpayment of supplier charges at the direction of an SCB provider should have the right to access standard offer service or sales service without regard to whether the customer repays the supplier for the amounts owed. That is because the supplier will have paid the utility’s receivables to the utility.¹³³

¹²⁹ NRG Reply Brief at 6.

¹³⁰ Deca Comments at 4-5. Because Deca is exclusively a supplier of gas, it did not offer comments relating to retail electric suppliers.

¹³¹ Deca Comments at 5.

¹³² Tr. at 309, 316.

¹³³ WGL Energy Initial Brief at 10.

3. OPC

OPC argues that the Electric Choice Act does not contemplate that suppliers should have the authority to direct or initiate service terminations.¹³⁴ OPC states that no statutory provision of the Electric Choice Act, or the PUA in general, authorizes suppliers to direct disconnection. In particular, the word “termination” is absent from the text of the statute establishing competitive billing services.¹³⁵ Instead, the General Assembly envisioned that nonpayment of supplier charges would result in a customer reverting to the utility’s standard offer service. OPC further states that in a seminal case addressing utility service termination in Maryland, *Everett v. Balt. Gas & Elec. Co.*, 307 Md. 286 (1986), the court held that the regulated utility has the burden of proving that a proposed termination is justified—a burden that would be impossible to meet based merely on a directive from a third party for debts not owed to the utility. OPC concludes that like other unregulated businesses, SCB providers have full access to traditional credit and collection tools, such as credit reporting, filing of judicial claims, and debt collection.¹³⁶

Irrespective of the legal authority, OPC argues that as a policy matter, it is not in the interest of the utility customers or in the public interest to grant competitive, non-regulated companies the right to terminate essential utility service to residential households for nonpayment.¹³⁷ OPC states that disconnection of essential services such as electric and gas is an extraordinary remedy available only to highly regulated public utilities and subject to many limitations and restrictions.¹³⁸ Because retail suppliers do not share the utilities’

¹³⁴ OPC Reply Comments at 6.

¹³⁵ OPC Brief at 5 (citing PUA § 7-511).

¹³⁶ OPC Brief at 10.

¹³⁷ OPC Brief at 4.

¹³⁸ OPC Comments at 14.

obligation to provide electric and gas service, and in fact have routinely discontinued service for business reasons, they should not share the utilities' authority to disconnect for nonpayment.

4. Potomac Edison/SMECO

Potomac Edison and SMECO argue that the Public Utilities Article does not envision that SCB providers would have the authority to direct utilities to terminate service to customers who fail to pay their bills. The utilities note that the Customer Choice Act did not adopt any provisions to extend disconnection of service responsibilities from the utilities to suppliers.¹³⁹ Potomac Edison and SMECO argue that the omission was intentional, because as part of the regulatory compact, utilities share an obligation to serve and submit themselves to heavy regulation, while “suppliers are not obligated to serve any customers and are largely unregulated by the Commission.”¹⁴⁰

Additionally, Potomac Edison and SMECO provided several policy arguments why it would be inappropriate for retail suppliers to wield disconnection authority.¹⁴¹ They stated that after the initial direction to disconnect from an unregulated retail supplier, the utility “would have no way of knowing if the customer made payment, qualified for a customer assistance program, or made any number of other changes to the customer’s account that should end or postpone termination efforts.”¹⁴² Given that the PUA and applicable Commission regulations prohibit or limit disconnection for numerous reasons, Potomac Edison and SMECO argue that authorizing unregulated suppliers to direct that

¹³⁹ Potomac Edison/SMECO Brief at 2.

¹⁴⁰ Potomac Edison/SMECO Brief at 3.

¹⁴¹ Potomac Edison/SMECO Comments at 10-11.

¹⁴² Potomac Edison/SMECO Comments at 10.

utilities disconnect customers could lead to “serious consequences for the customers, as well as expose utilities to significant legal exposure.”¹⁴³

5. Joint Utilities

The Joint Utilities raise a number of policy concerns related to authorizing SCB providers to direct service termination.¹⁴⁴ For example, it is not clear how normal payment posting rules would be followed for customers that have existing utility arrears and then enroll with an SCB provider. Additionally, the Joint Utilities express concern over the handling of low-income and emergency funds, stating that involvement of intermediate parties could delay application of the funds and put more customers at risk for disconnection. The Joint Utilities also state that requiring the utilities to continue the disconnection process under SCB poses numerous problems stemming from the fact that the utility’s records will show that the customer has no arrears.¹⁴⁵ Because utility billing systems are heavily automated, the zero balance will not trigger the “multitude of processes where termination notices are sent, dialer calls are made, and the account ultimately appears on the list of properties to be terminated.”¹⁴⁶

The Joint Utilities state that the four statutory provisions in the Public Utilities Article that relate to utility terminations do not explicitly prohibit a supplier from directing a utility to terminate a customer’s service.¹⁴⁷ However, if the Commission were to approve

¹⁴³ Potomac Edison/SMECO Comments at 10-11.

¹⁴⁴ Joint Utilities Reply Comments at 3-4.

¹⁴⁵ Joint Utilities Reply Brief at 2.

¹⁴⁶ Joint Utilities Reply Brief at 2. Joint Utilities state that they prefer an alternative where either (i) SCB providers perform all collection activities up until termination, or (ii) SCB suppliers return the customer to standard offer service and the supplier continues to collect for any arrears.

¹⁴⁷ Joint Utilities Reply Comments at 2 (citing PUA §§ 7-307, 7-307.1, 7-307.3, and 7-309).

supplier-directed terminations, the Joint Utilities argue it would be appropriate for the Commission to seek a statutory change to extend those statutory provisions to suppliers.¹⁴⁸

6. MEA

MEA supports Petitioners' request for disconnection authority. MEA argues that such authority is essential to manage bad debt and prevent free-ridership.¹⁴⁹ MEA further contends that disconnected customers should not simply be defaulted back to standard offer service or be allowed to move from one supplier to another. MEA concludes that the limitations proposed by Petitioners to protect customers, such as agreeing to abide by current COMAR restrictions involving customer notices and the winter weather moratorium, are sufficient to protect the public interest.

7. Staff

Staff observes that nothing in the PUA or the Commission's regulations provides express authority for retail suppliers to direct utilities to disconnect customers for non payment of non-utility obligations.¹⁵⁰ Nevertheless, Staff opines that if the Commission decides it is in the public interest to authorize suppliers to direct disconnections, no statutory provisions need to be amended, because distribution utilities will be the entities performing the actual disconnection. Additionally, Staff argues that any customer disconnected from competitive supply must be returned to standard offer service or sales service immediately upon disconnection.¹⁵¹ That obligation stems from PUA § 7-510(c)(2)(vi), which provides that a customer is considered to have selected

¹⁴⁸ Joint Utilities Brief at 4.

¹⁴⁹ MEA Comments at 14.

¹⁵⁰ Staff Brief at 6.

¹⁵¹ Staff Brief at 7-8.

Standard Offer Service if the customer has been denied service, and PUA § 7-507(e)(6), which requires the Commission to “establish provisions for the referral of a delinquent account by an electricity supplier to the standard offer service under Section 7-501(c) of this subtitle”

B. Commission Decision

Without resolving the legal arguments addressing the Commission’s authority to allow SCB providers to direct utilities to disconnect customers for nonpayment, the Commission finds for policy reasons that it is not appropriate at this time to authorize SCB providers to direct service terminations.

The Commission finds that service terminations directed by SCB providers could interfere with the utilities’ ability to ensure that any disconnection is fully consistent with the customer protections contained in the PUA and the Commission’s regulations. For example, once the utility receives a supplier direction to disconnect a customer, the utility could be left unaware if the customer subsequently makes a payment or qualifies for a customer assistance program, or qualifies under one of the many COMAR provisions prohibiting or requiring delay of termination. Additionally, the Commission finds that the involvement of intermediate parties could delay application of low-income or emergency funds and put customers at unnecessary risk of disconnection. Furthermore, the Joint Utilities demonstrated that it is not clear how normal payment posting rules would be followed for customers that have existing utility arrears and then enroll with an SCB provider.

Although the Commission is directed by statute to ensure that the transition to competitive electricity supply is fair and non-discriminatory, including to suppliers, OPC

and Potomac Edison/SMECO also make sound arguments related to the regulatory compact. Retail suppliers do not share the utilities' obligation to provide electric and gas service, are entitled to discontinue service for business reasons, and have requested authority that has only been exercised in this State by fully regulated utilities. At least at this time, while the SCB Workgroup addresses the implementation details of how to achieve SCB, the Commission finds it is not appropriate to extend termination authority to suppliers. However, in response to the concerns raised by the suppliers, including management of bad debt, the Commission will require that utilities purchase the outstanding distribution charges of a delinquent customer account upon the customer's return to standard offer service, as further discussed below. For other charges, the SCB provider should resort to the traditional remedies of other non-regulated businesses, including reporting to credit agencies, seeking monetary judgments in court, and pursuing collection activities.

VII. Purchase of Receivables and Supplier Bad Debt

A. Party Comments

1. Petitioners

Petitioners propose that SCB will function in the same manner as UCB.

The supplier would be required to purchase the full value of the utility's receivables, meaning that it would be a zero discount rate. The payment period would be the same as the timing for the utilities to purchase supplier receivables under the existing POR procedures—payment to be due by the 5th day of the due date noted on the consolidated bill. It is further proposed that the purchase would be without recourse for all charges and, otherwise, on the same terms that the utility purchases supplier receivables for the existing

UCB.”¹⁵² Petitioners note that this process will “preserve all existing protections enjoyed by Maryland’s retail customers with respect to the Commission’s standards and billing practices for residential service.”¹⁵³

Petitioners also state that suppliers should utilize a payment posting system so that non-commodity charges are paid last in order to avoid terminations for non-commodity services.¹⁵⁴

2. Joint Utilities

The Joint Utilities do not take a position on the legality, or desirability, of either POR or supplier disconnects. However, they do argue that additional details must be resolved before implementation. Specifically, the Joint Utilities identify tax payments to county and state, supplier obligations to retain customer’s historical, pre-SCB bills, and management of regulatory mandated bill inserts as issues needing resolution.¹⁵⁵

3. Potomac Edison/SMECO

Potomac Edison and SMECO note concerns with the supplier’s competency in records and billing, noting that “any misinformation provided by suppliers regarding a customer’s payment status, which could make all the difference in determining whether a customer’s service would be terminated or reconnected, would create potentially serious consequences for the customers, as well as expose utilities to significant legal expense.”¹⁵⁶

¹⁵² Petition at 16.

¹⁵³ Petition at 17.

¹⁵⁴ Petitioners Reply Comments at 40.

¹⁵⁵ Joint Utilities Comments at 4.

¹⁵⁶ Potomac Edison/SMECO Comments at 10-11.

4. Staff

Staff does not take a position on POR and “request[s] any guidance the Commission may wish to offer at this time on the issue of supplier termination of service for non payment.”¹⁵⁷

5. MEA

In discussing the POR process, MEA suggests that establishing a payment posting priority could resolve concerns with supplier charges impacting utility terminations. MEA suggests requiring suppliers to apply payments first to distribution and supply charges.¹⁵⁸ Petitioners agree with this suggestion.¹⁵⁹

6. OPC

OPC asks the Commission to deny the Petitioner’s request to provide POR for utilities.¹⁶⁰

7. Other Retail Suppliers

WGL Energy supports Petitioner’s request to direct utility disconnections noting that “an energy supplier offering SCB services would take on the responsibility for billing customers for utility delivery charges and thereby assume the risk of customer nonpayment.”¹⁶¹ MEMC supports Petitioner’s proposal to purchase utility receivables to ensure utilities are timely paid for their charges.¹⁶²

¹⁵⁷ Staff Comments at 8.

¹⁵⁸ MEA Comments at 15

¹⁵⁹ Petitioners Reply Comments at 40.

¹⁶⁰ OPC Comments at 16.

¹⁶¹ WGL Energy Comments at 4.

¹⁶² MEMC Comments at 4.

B. Commission Decision

In implementing SCB, the Commission finds that suppliers should provide purchase of receivables to the utility on substantially the same terms as provided under UCB. The Workgroups should fully explore this arrangement and propose regulations, tariffs, and sufficient protocols (e.g., EDI/XML) to effectuate this relationship. The particulars of this process should be reviewed to ensure no undue impact on the utility.¹⁶³ In addition, where different treatment of utility and supplier POR is justified or where additional clarity is needed, the SCB Workgroup or TIWG (collectively, “Workgroups”) should raise these issues for Commission consideration.

Even without allowing a supplier to direct termination of utility services, allowing suppliers to undertake SCB and POR necessarily means that supplier billing and collection practices will have some impact on a customer’s distribution-related balance. As such, the Commission finds that certain SCB and POR practices are necessary to ensure that any charges contributing to a disconnection are properly handled. The primary safeguard is requiring SCB providers to follow a payment posting priority that will minimize distribution arrearages. The Workgroups should identify and propose a fair and equitable payment posting priority and any other protections that may be necessary.

The Commission agrees with Petitioners, RESA, WGL Energy, and MEA that suppliers that offer SCB need some ability to protect themselves from the risk of non payment of distribution-related debt. When a supplier is no longer serving a customer,

¹⁶³ For example, the number of days before payment is due to the utility under POR should be set to avoid any impacts on the utility’s cash working capital needs.

after reasonable efforts to collect,¹⁶⁴ the supplier should not be required to hold any debt attributable to the customer's distribution charges paid under POR. Where a supplier can demonstrate the amount of unpaid distribution charges,¹⁶⁵ the utility should repurchase those charges. The discount rate when a utility re-purchases distribution-related debt should be at a zero discount rate unless the SCB Workgroup can provide alternative calculations which are supported by a compelling analysis. This approach will alleviate Potomac Edison/SMECO's concerns as the charges would then become utility debt, subject to termination proceedings. The supplier would retain any debt related to its own supply charges and any non-utility costs, and the supplier can use any legal collection methods available.

As discussed further below in the Consumer Protections section, implementing this process will require the Workgroups to engage in a careful review and consideration of existing regulations and tariffs. Careful consideration should be given to any requirements for supplier collection notices to ensure they clearly outline what charges will and will not be eligible for utility termination. In addition, the Workgroups should develop regulations to ensure that customer energy assistance payments are being applied to the appropriate charges on the SCB. Finally, the Workgroups should develop specific record keeping requirements for suppliers offering SCB, which will satisfy the utilities and the Commission that any re-purchased debt is accurately accounted for.

¹⁶⁴ Including providing a final bill and collection notices.

¹⁶⁵ In accordance with the approved payment posting procedures.

VIII. Consumer Protection and Customer Education

A. Party Comments

1. Petitioners

Petitioners assert that their proposal would “preserve all existing protections enjoyed by Maryland’s retail customers with respect to the Commission’s standards and billing practices for residential service” set forth in existing regulations.¹⁶⁶ For gas, Petitioners cite PUA § 7-604 as requiring the Commission to “provide customers with protections consistent with applicable protections provided to retail choice customers, and impose appropriate requirements on gas suppliers that are consistent with those imposed on electricity suppliers.”¹⁶⁷ Petitioners propose a requirement to provide all “Commission required bill inserts” with the supplier consolidated bills.¹⁶⁸ Petitioners also identify needs for additional consumer education regarding SCB “during the sales transaction, through disclosure documents, in the contract and on the supplier’s website.”¹⁶⁹ Alternatively, Petitioners argue that many of the consumer protection issues can be resolved through heightened qualifications for suppliers seeking to offer SCB.¹⁷⁰ Finally, Petitioners agree to be subject to the same Commission processes for billing disputes within the Commission’s Consumer Affairs Division.¹⁷¹

¹⁶⁶ Petition at 17.

¹⁶⁷ Petitioners Reply Comments at 30.

¹⁶⁸ Petition at 24.

¹⁶⁹ Petitioners Reply Comments at 26.

¹⁷⁰ Petitioners Reply Comments at 38, 39.

¹⁷¹ Tr. at 35.

2. Joint Utilities

The Joint Utilities raise a number of significant consumer protection issues that are not addressed in the Petition. Setting aside those related to terminations, they identify maintenance of the customer's historical pre-SCB bills and handling of regulatory mandated bill inserts.¹⁷² The Joint Utilities note that consumer protections should be the subject of a full analysis to ensure that all important consumer protections, notices, and communications are the clearly delineated responsibility of a specific party.

Regarding customer education, the Joint Utilities caution that failure to properly educate customers regarding the respective roles and responsibilities of the utilities and SCB providers “could result in customer confusion, frustration, and general dissatisfaction with the quality of their service.”¹⁷³ The customer should therefore be informed of which entity to call regarding issues such as status of energy assistance payments and collection notices.¹⁷⁴ Customers should also be informed that, irrespective of whether a customer chooses a retail electric supplier, the utilities will continue to be responsible for providing safe and reliable gas and electric service, and they will continue to offer energy efficiency and demand response programs.

3. Potomac Edison/SMECO

Potomac Edison and SMECO identify a series of utility consumer services that would be impacted by the implementation of SCB. Potomac Edison and SMECO raise

¹⁷² Joint Utilities Comments at 4.

¹⁷³ Joint Utilities Comments at 2.

¹⁷⁴ Joint Utilities Comments at 4. The Joint Utilities further note that there are numerous responsibilities that will have to be assigned to either the utility or the SCB provider, including which entity should file the winter restrictions affidavit.

concerns that changes would be necessary to “customer service functions, including dispute resolution, complaint handling, termination of service for non payment, and dissemination or required regulatory notices and other customer communications.”¹⁷⁵ In addition, Potomac Edison and SMECO identify a need for the utility to have “access to real-time information regarding customer’s accounts” in order to provide customer service.¹⁷⁶ Potomac Edison and SMECO allege that even a carefully crafted regulatory scheme would be “very unlikely to give customers the same level of protection against supplier actions which those customers enjoy with respect to the fully-regulated utilities.”¹⁷⁷ Finally, they cite the potential for customer confusion regarding whom to contact for customer service issues where a ratepayer has had multiple billing relationships in a given year.¹⁷⁸

4. OPC

One of OPC’s initial requirements for the implementation of SCB is to ensure that there is “no loss of essential consumer protections related to the billing and collection of energy supply, and utility related distribution charges and fees.”¹⁷⁹ OPC requests that the SCB Workgroup address a number of specific areas including “extension of all existing consumer protections currently in place to residential customers served by SCB providers; [t]he identification of notice, disclosures and information required for all SCBs rendered by SCB providers; ... and [m]ethods of tracking customer concerns and problems resulting

¹⁷⁵ Potomac Edison/SMECO Comments at 8.

¹⁷⁶ Potomac Edison/SMECO Comments at 10.

¹⁷⁷ Potomac Edison/SMECO Comments at 11.

¹⁷⁸ Potomac Edison/SMECO Comments at 11.

¹⁷⁹ OPC Comments at 2.

from any adoption of SCB such as an increase in the number of utility service terminations.”¹⁸⁰

Specifically, OPC challenges Petitioners’ intent to display distribution charges as a “single combined price for all energy consumed during a billing period.”¹⁸¹ OPC cites PUA § 7-505 to highlight requirements that bills for electric service require separate charges for distribution, transmission, universal service program charges, customer charges, and taxes.¹⁸² Further, OPC cites COMAR 20.50.05.01A as requiring that all electricity sold by a utility be based on metered measurements and thereby disallowing flat bill offerings under SCB.¹⁸³

5. MEA

MEA supports providing education to customers regarding the roles of utilities and suppliers in the context of SCB.¹⁸⁴ Additionally, in conjunction with the recommendations of the PC44 Competitive Markets and Customer Choice Workgroup, MEA supports a broader customer education effort through the development of an electricity and gas shopping website that informs customers of their retail options and protections.

6. Staff

Staff does not take a position on consumer protections. However, Staff does identify a series of potential consequences that should be considered during the

¹⁸⁰ OPC Comments at 4.

¹⁸¹ OPC Comments at 4 (citing Petition at 24).

¹⁸² OPC Comments at 4.

¹⁸³ OPC Comments at 5.

¹⁸⁴ MEA Comments at 17.

implementation of SCB. These include transfer of billing information between the utility and the supplier, rate change information, and responsibility of bill inserts.¹⁸⁵

7. MEMC

MEMC states that customer education is vital to successful SCB implementation, and MEMC argues that a natural gas shopping website with similar functionality to the existing electrical website should be established as part of a customer education program.¹⁸⁶

B. Commission Decision

The Commission finds that a supplier that offers SCB is required to provide all the same consumer protections, disclosures (including the utility's price to compare), notices, and billing information required of a regulated utility. Under PUA § 7-505, the Commission has a number of obligations related to ensuring that customers receive information related to emissions and fuel mixes¹⁸⁷ as well as unbundled charges for distribution, transmission, universal service charges, customer charges, taxes, and other charges identified by the Commission.¹⁸⁸ Through PUA § 7-604, the Commission has authority to "provide for contracting, enrollment, and billing practices and procedures" for gas suppliers seeking to offer SCB.¹⁸⁹ Finally, the protections provided to electric and gas customers must be consistent "unless the Commission determines that the circumstances

¹⁸⁵ Staff Comments at 8. Potomac Edison/SMECO also note this concern in their joint comments at 11-12, citing a Connecticut decision which noted challenges such as "scattered bill histories among different suppliers, potentially jeopardizing customer security; and supplier call centers having insufficient background information to answer the questions of customers."

¹⁸⁶ MEMC Comments at 5-6.

¹⁸⁷ PUA §7-505(b)(4).

¹⁸⁸ PUA §7-505(b)(5).

¹⁸⁹ PUA §7-604(a)(2).

do not require consistency.”¹⁹⁰ Therefore, any consumer protections related to SCB should cover both electric and gas bills.

These statutory requirements represent the minimum disclosures required by law. In addition, suppliers offering SCB will need to provide all surcharge line items and comply with all applicable COMAR requirements related to consumer protections. These requirements are embodied throughout our COMAR regulations.¹⁹¹ It may be appropriate to leave some of these responsibilities with the utility, and the SCB Workgroup should explore the appropriate entity to provide each service.

The SCB Workgroup should carefully review the PUA, existing Commission precedent on SCB,¹⁹² and the filings in this docket to propose electric and gas SCB regulations in COMAR that will meet these minimum consumer protection requirements. Where compliance is not possible or there is a justification to deviate from these standards, the SCB Workgroup should identify any deviations along with the potential justification. The SCB Workgroup should also identify any additional consumer protections that should be adopted to ensure customers are protected under SCB.

The Petition and party comments identify some new and additional protections specific to SCB that must be explored and presented for Commission consideration. The SCB Workgroup should ensure that Staff’s and Potomac Edison/SMECO’s concerns regarding customer service levels, including dispute resolution, and access to billing and payment histories is adequate to provide necessary utility services. The SCB Workgroup

¹⁹⁰ PUA §7-604(b).

¹⁹¹ The SCB Workgroup may consider development of an annual education disclosure that would take the place of the customer rights pamphlets for SCB providers.

¹⁹² Order Nos. 75722, 73834, 74561 and 75959.

should consider new disclosure and notice requirements for how both utilities and SCB suppliers communicate the varying relationships to the customer, the content of past due notices by SCB suppliers, and utility notices for customers selecting SCB. These requirements should not act as a barrier to the new and innovative offerings identified in the Petition, such as flat bills. For example, as the Commission found in reviewing the license application of Deca,¹⁹³ the requirements of § 7-505 do not prevent a flat bill offering provided that the necessary information is available *on the bill* for the customer's review.

Regarding customer education, the Commission finds that failure to properly educate customers regarding the respective roles and responsibilities of the utilities and SCB providers could lead to customer confusion and dissatisfaction with the quality of service and could negatively affect the implementation of SCB. Customers should be informed of which entity to call for various issues, from routine billing inquiries, to the status of energy assistance payments, to emergencies such as gas leaks. The SCB Workgroup is therefore directed to examine customer education issues, including who will be responsible for conducting consumer education as well as how it will be funded.

¹⁹³ License No. IR-3805.

IX. Cost Recovery

A. Party Comments

1. Petitioners

Petitioners do not address the potential costs of SCB and mechanisms for cost recovery in their filings.¹⁹⁴ However, at the hearings, Petitioners indicated that they consider the intent of the General Assembly to be that implementation of SCB will benefit all ratepayers and therefore costs should be paid by all ratepayers.¹⁹⁵ In addition, they suggest considering recovering some of the costs through excess POR balances, where available.¹⁹⁶

2. Joint Utilities

The Joint Utilities raise the need for a “full and timely recovery” of the costs associated with implementing SCB in Maryland. For reference, the Joint Utilities provide an estimate from their Pennsylvania affiliate PECO Energy (“PECO”) that IT costs alone for SCB would be \$4.5 million.¹⁹⁷ In addition to IT costs, PECO identified necessary changes to call center, complaint handling, terminations, and collections procedures.¹⁹⁸ The Joint Utilities urge the Commission to consider the costs and benefits of SCB and note that “it is appropriate for suppliers to bear the implementation costs.”¹⁹⁹ Under this scenario, the Joint Utilities also ask the Commission to ensure that there are no stranded costs should suppliers decide not to use the provided SCB capabilities.²⁰⁰

¹⁹⁴ Petitioners Reply Comments at 5. Petitioners note that the Joint Utilities raised this issue but do not respond.

¹⁹⁵ Tr. at 131 and 152.

¹⁹⁶ Tr. at 131.

¹⁹⁷ Joint Utilities Comments at 5-6.

¹⁹⁸ Joint Utilities Comments at 6.

¹⁹⁹ Joint Utilities Comments at 6.

²⁰⁰ Joint Utilities Comments at 6.

3. Potomac Edison/SMECO

Potomac Edison and SMECO also believe the costs should be recovered from the suppliers who will benefit from SCB and oppose recovering the costs of implementing SCB from ratepayers. Potomac Edison and SMECO urge the Commission to reject “any suggestion by the Petitioners that customers should fund the changes needed for SCB on behalf of unregulated electric suppliers.”²⁰¹ All of the benefits of SCB will flow to suppliers while the inefficiencies and complications of SCB will burden ratepayers. Further, maintaining two billing paradigms would “create unnecessary logistical challenges as customers move from supplier to supplier and back to SOS, as well as require duplicative costs and resources on the part of both utilities and suppliers.”²⁰² This duplication is a result of the utilities’ legal obligation to maintain billing systems in order to meet their customer service and operation functions under the PUA.²⁰³ In addition, they quote a Connecticut Public Utilities Regulatory Authority finding that making potentially costly changes to accommodate a small number of suppliers is impractical and that the necessary data transfers to allow for SCB would be costly for the utilities, suppliers, and ratepayers.²⁰⁴

4. OPC

OPC agrees with the Joint Utilities that participating suppliers should bear the costs of implementing SCB.²⁰⁵ Like Potomac Edison/SMECO, OPC argues that the

²⁰¹ Potomac Edison/SMECO Reply Comments at 9.

²⁰² Potomac Edison/SMECO Reply Comments at 9.

²⁰³ Potomac Edison/SMECO Reply Comments at 9.

²⁰⁴ Potomac Edison/SMECO Comments at 12.

²⁰⁵ OPC Comments at 16.

implementation of SCB will benefit non-regulated businesses as opposed to ratepayers. Further, OPC argues that ratepayers also pay for increased uncollectibles when customers are unable to pay a supplier's high variable rates.²⁰⁶ OPC asserts it is inappropriate for ratepayers to pay the costs of supplier bills where there is no "commensurate regulatory oversight of supplier purchasing practices or business practices."²⁰⁷

5. Staff

As noted above, Staff does not take a position on the implementation issues outlined in the Petition. However, Staff did identify a number of areas where implementation of SCB could impact costs to ratepayers that will require further workgroup discussion. Staff lists the impacts of SCB on UCB and its POR discount rates, "real benefits to Maryland ratepayers, the full economic cost and cost to ratepayers of SCB, relative cost efficiency of SCB versus UCB, the SCB take rates from suppliers if SCB is approved," treatment of reconciliation mechanisms under SCB, metering, and meter reading.²⁰⁸

6. MEA

MEA argues that costs to implement SCB are "transition" costs under PUA § 7-501(p)(2).²⁰⁹ Further, MEA notes that the Commission has authority to allow for recovery of utility costs for the transition to SCB under PUA § 7-513.²¹⁰ While MEA does not take a specific position on where to recover costs, it agrees that these costs should be recoverable for the utility.²¹¹ MEA also argues that a wholesale shift to SCB would relieve

²⁰⁶ OPC Comments at 13 n.37.

²⁰⁷ OPC Comments at 17.

²⁰⁸ Staff Comments at 9.

²⁰⁹ MEA Reply Comments at 2.

²¹⁰ MEA Reply Comments at 3.

²¹¹ MEA Reply Comments at 3.

the utilities of the need to send bills. Without the obligation to bill customers, utilities would experience cost savings from the “decrease in bill administration costs (mailing, customer service personnel, etc.) and a reduction in utility collections.”²¹² In addition, MEA identifies as a benefit the ability to decrease socialization of utility collections costs.²¹³

7. Calpine

Calpine observes that the Petition does not discuss SCB costs or who will bear them. Calpine argues that the SCB implementation costs will be significant, including the costs of customer education, setting up protocols, programing and technology enhancements, and ongoing policing.²¹⁴ Following principles of cost causation, Calpine asserts that “suppliers using SCB should bear all of the risks and all costs attendant to that start up together with all ongoing costs associated with that billing function.”²¹⁵

B. Commission Decision

The Commission does not have sufficient information to determine either the costs or the appropriate cost recovery mechanism for SCB implementation at this time. Therefore, the Commission makes no findings regarding the appropriate cost recovery mechanism at this time. However, the stakeholders have identified a number of areas where costs will be incurred to provide a successful SCB process. In addition to the enabling costs to change the utility IT systems and develop necessary changes to the EDI transactions, there may be costs related to customer service and call center operations,

²¹² MEA Comments at 11.

²¹³ MEA Comments at 11.

²¹⁴ Calpine Comments at 3.

²¹⁵ Calpine Comments at 3.

impacts on reconciliation mechanisms, or a utility's cash working capital needs. However, there may be cost savings to the utilities and their ratepayers, through sending fewer bills, lower collections costs, and other potential efficiencies. The Commission directs the SCB Workgroup to identify and estimate, with as much detail as possible, these and any other costs and benefits related to SCB.

Historically, utility investments necessary to enable the retail supply market have been recovered from ratepayers through base rates or from participating suppliers through the utility POR mechanism. SCB is an important and timely evolution in customer choice, and the SCB Workgroup should also consider varying cost recovery mechanisms and present either a consensus approach or options for Commission consideration.²¹⁶

IT IS THEREFORE, this 7th day of May, in the year Two Thousand Nineteen, by the Public Service Commission of Maryland,

ORDERED (1) That supplier consolidated billing for retail electric and gas supply customers is authorized in Maryland;

(2) That Petitioners' request for authority to direct utilities to terminate customer service for nonpayment is denied;

(3) That the SCB Workgroup, which will include a separate, technical implementation work group, both of which shall be led by Commission Staff, is established that will address supplier consolidated billing implementation issues, consistent with the guidance in this Order, including the following:

(a) Qualifications for supplier consolidated billing providers;

²¹⁶ The Commission recognizes that the SCB Workgroup may not be able to reach a consensus on this issue, but this should not delay progress towards proposing regulations in other areas.

- (b) Purchase of receivables and bad debt;
- (c) Consumer protection;
- (d) Customer education; and
- (e) Cost recovery;

(5) That the SCB Workgroup will have 60 days from the date of this Order to file a timeline for implementing supplier consolidated billing, including a procedural schedule with deliverables for Commission review; and

- (6) That any requests not granted herein are denied.

/s/ Jason M. Stanek _____

/s/ Michael T. Richard _____

/s/ Anthony J. O'Donnell _____

/s/ Odogwu Obi Linton _____

/s/ Mindy L. Herman _____

Commissioners