STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2016-00105

July 15, 2016

MAINE PUBLIC UTILITIES COMMISSION
Inquiry into Electricity and Natural Gas Bill Unbundling

Comments of the National Energy Marketers Association

The National Energy Marketers Association (NEM)[1] hereby submits its comments on the Commission’s Notice of Inquiry [hereinafter “Notice”] dated June 14, 2016, which was initiated for the purpose of considering, “whether and to what extent electricity and natural gas utility bills should be further unbundled and, if so, which components should be separately stated.” The electric utilities unbundled their bills to separately state supply charges in preparation for retail access. However, current Commission rules require that, "a utility may not separately list line items on the bill that do not represent a separate, discrete utility service or a State or Federal Tax." At the time, it was thought that further unbundling would confuse consumers. Recently however, Emera Maine sought to implement a new bill format that unbundled rates further. Given consumer reaction to the Emera bill change, the Commission opined that, "the potential for confusion by unbundling charges may no longer exist." (Notice at 1). NEM submits that heightened consumer demand to control their energy future, increased consumer sophistication, and rapid technological innovation in energy supply and demand side products warrant increased transparency in utility rates and bills.

[1] National Energy Marketers Association (NEM) is a non-profit trade association representing both leading suppliers and major consumers of natural gas and electricity as well as energy-related products, services, information and advanced technologies throughout the United States, Canada and the European Union. NEM's membership includes independent power producers, suppliers of distributed generation, energy brokers, power traders, global commodity exchanges and clearing solutions, demand side and load management firms, direct marketing organizations, billing, back office, customer service and related information technology providers. NEM members also include inventors, patent holders, systems integrators, and developers of advanced metering, solar, fuel cell, lighting, and power line technologies. This document reflects the views of the National Energy Marketers Association and does not necessarily reflect the views of any specific member of the Association.

In addition, the further unbundling of the electric and natural gas utility rates and bills will facilitate the continued development of the retail market. Rate and bill unbundling will permit consumers to see and understand the full extent of the costs associated with standard offer service and permit consumers to make accurate, informed comparisons with competitive offerings. Also, consumers that migrate should not be penalized by a double payment of commodity-related costs, once to their competitive electricity provider (CEP) that is currently providing the service, and once to the utility that is no longer providing the service but is collecting the costs through delivery rates that have not been fully unbundled.

Given the stakeholder experience gained over nearly two decades of retail competition, NEM suggests that the instant proceeding represents an excellent opportunity to undertake a comprehensive review of utility delivery service rate unbundling that has occurred, and to examine whether additional unbundling is necessary to separate out the full retail costs to the utility of providing 24/7 no-notice, last resort standard offer service. The failure to fully and properly unbundle means that consumers are paying hidden cross-subsidies in their delivery rates of what should properly be accounted for as standard offer service rates. In addition, if no-notice standard offer service costs are not fully unbundled from delivery service rates, then the utility is still permitted to profit from rendering standard offer service rather than it being a direct pass through of those costs. It is critical to ensure that no-notice standard offer service is accurately priced and consumers have real apples-to-apples price comparisons in the marketplace.

1. **What components of electricity and natural gas delivery rates should be itemized on customer bills? Please explain the objective for itemizing each such item.**
2. **What components of electricity and natural gas supply prices should be itemized on customer bills? Please explain the objective for itemizing each such item.**

NEM Response to Questions 1 and 2. Proper rate unbundling is a prerequisite to sending proper price signals, to assist consumers in making educated consumption decisions, and to permit suppliers to invest risk capital to make competitive product and service offerings available to consumers. Utilities should unbundle their rates on an embedded cost basis[2] by removing all costs related to commodity sales from delivery service charges and including all such commodity sales costs in the commodity price. All suppliers providing electric commodity service to customers at retail, including standard offer service providers and competitive suppliers, incur costs to do so in addition to the wholesale cost of the energy commodity. These costs include:

> transmission charges, scheduling and control area services, risk management premiums, load shape costs, commodity acquisition and portfolio management, renewable portfolio standard compliance, working capital, and taxes, as well as costs for administrative and general expenses, billing, collections, bad debt, information exchange, compliance with consumer protection regulations, and customer care.

All suppliers providing natural gas commodity service to customers at retail, including default service providers and competitive suppliers, incur costs to do so in addition to the wholesale cost of the energy commodity. These costs include:

[2] The New York Public Service Commission determined that, "one prerequisite to fostering market development is the conduct of cost studies, the ensuing assignment of costs to the utilities' various functions and services, and the establishment of fully unbundled, cost based rates for electric and gas service." (New York Public Service Commission, Case 00-M-0504, Order Directing Expedited Consideration of Rate Unbundling, issued March 20, 2001, page 1). The Commission further found that embedded cost based rates were required. (New York Public Service Commission, Case 00-M-0504, Order Directing Filing of Embedded Cost Studies, issued November 9, 2001). See also NYPSC Staff "Report on the State of Competitive Energy Markets: Progress to Date and Future Opportunities," March 2, 2006, p. 4 (recommending that, "Utility bills should continue to fully and separately identify energy supply costs and energy delivery costs, to provide the level of price transparency customers need to compare offers when selecting an energy supplier.")

> no notice service, pipeline capacity charges, city-gate delivery requirements, and related-commodity charges, a share of pool operating expenses, risk management premiums, commodity acquisition and portfolio management, working capital, taxes, administrative and general expenses, the costs of billing, collections, bad debt, information exchange, regulatory compliance, and customer care.

These costs are incurred by competitive energy suppliers and are included in competitive energy supplier pricing. When these same costs are also included in utility pricing it results in a double payment of these costs by consumers. Costs that remain in utility delivery service pricing, for a service that the utility is no longer rendering is anti-competitive and anathema to proper utility cost of service regulation. Failing to unbundle these costs has a devastating effect on the competitive market, since competitive suppliers are unable to compete effectively on the basis of price with the subsidized default service option. By properly assigning costs and unbundling competitive services from monopoly services, the Commission will encourage true competition on the basis of pricing, quality of service, and provision of value-added services.[3]

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[3] For example, the Pennsylvania Public Utility Commission has defined in its regulations what comprises the electric utilities' Price to Compare as follows:

> Default service cost elements.
>
> (a) The PTC should be designed to recover all generation, transmission and other related costs of default service. These cost elements include:
>
> (1) Wholesale energy, capacity, ancillary, applicable RTO or ISO administrative and transmission costs.
>
> (2) Congestion costs will ultimately be recovered from ratepayers. Congestion costs should be reflected in the fixed price bids submitted by wholesale energy suppliers.
>
> (3) Supply management costs, including supply bidding, contracting, hedging, risk management costs, any scheduling and forecasting services provided exclusively for default service by the EDC, and applicable administrative and general expenses related to these activities.
>
> (4) Administrative costs, including billing, collection, education, regulatory, litigation, tariff filings, working capital, information system and associated administrative and general expenses related to default service.
>
> (5) Applicable taxes, excluding Sales Tax.
>
> (6) Costs for alternative energy portfolio standard compliance.

52 Pa. Code § 69.1808. See also PAPUC Docket No. M-00072009, Default Service and Retail Electric Markets, FINAL POLICY STATEMENT, May 10, 2007.

Underpinning a robust competitive market design is the proper allocation of costs between delivery functions and competitive (and potentially competitive) commodity-related functions.

The Pennsylvania Public Utility Commission also has defined in its regulations what comprises the natural gas utilities' Price to Compare as follows:

> (a) The PTC rate must be expressed on a per MCF or dekatherms (Dth) basis and consist of the following elements:
>
> (1) The natural gas supply charge determined in the NGDC'S Section 1307(f) proceeding, including the reconciliation for over and under collections.
>
> (2) The GPC.
>
> (3) The MFC.
>
> (b) An NGDC shall file a tariff change under 66 Pa.C.S. § 1308(a) (relating to voluntary changes in rates) to identify the natural gas procurement costs included in its base rate and propose tariff revisions designed to remove those costs from its base rate and to recover those annual costs as part of the PTC (the GPC portion) on a revenue neutral basis.
>
> (1) Natural gas procurement costs must include the following elements:
>
> (i) Natural gas supply service, acquisition and management costs, including natural gas supply bidding, contracting, hedging, credit, risk management costs and working capital.
>
> (ii) Administrative, legal, regulatory and general expenses related to those natural gas procurement activities, excluding those related to the administration of firm storage and transportation capacity.
>
> (2) An NGDC's natural gas procurement costs shall be updated in its next base rate case.
>
> (c) An NGDC shall file an MFC rider. The MFC rider must remove the cost of uncollectibles applicable to natural gas costs from its distribution rates and recover those annual costs as part of the PTC on a revenue neutral basis.
>
> (1) A write-off factor for each customer class is determined by dividing the uncollectible expense by revenues. This factor applied to the natural gas supply charge determined in the NGDC's Section 1307(f) proceeding is the implementation MFC amount that must be removed from distribution rates on a revenue neutral basis.
>
> (2) After implementation, unbundled distribution charges may not be adjusted for the write-off factor outside of a base rate case.
>
> (3) The MFC for each customer class must be equal to the write-off factor times the natural gas supply charge determined in the NGDC's Section 1307(f) proceeding and shall be updated quarterly to reflect new natural gas supply charges effective with each 1307(f) filing.
>
> (4) The write-off factor shall be updated in an NGDC's next base rate case.
>
> (d) The GPC and MFC tariff riders must identify:
>
> (1) How the surcharges are calculated.
>
> (2) Which costs shall be recovered through the surcharge by:
>
> (i) Customer class.
>
> (ii) Federal Energy Regulatory Commission account number, including the specific subaccounts used to recover eligible procurement costs.
>
> (e) The GPC and MFC are not subject to reconciliation for a prior period over or under collections.

52 Pa. Code § 62.223. See also PAPUC Docket No. L-2008-2069114, Revised Final Rulemaking Order, June 23, 2011.

The Pennsylvania Public Utility Commission defines GPC and MFC as follows:

> GPC—Gas procurement charge—An element of the PTC, expressed on a per MCF or dekatherms (Dth) basis, that reflects an NGDC's natural gas procurement costs and removed from the NGDC's base rate and recovered through a separate charge.
>
> MFC—Merchant function charge—An element of the PTC, expressed on a per MCF or Dth basis, that reflects the cost of uncollectibles associated with an NGDC's natural gas costs.

52 Pa. Code § 62.222.

Embedded cost-based utility rate unbundling is critical to the further development of the competitive retail electric market because it provides consumers with accurate price signals with regard to the full retail cost of providing 24 hour/7 day no notice service.[4] Also, in the absence of fully unbundled rates, migrating consumers unfairly and improperly bear the expense of commodity-related functions that remain hidden in delivery charges. All of the commodity-related costs that a default service provider will incur on behalf of default service customers in the provision of electricity supply should be reflected in the price to compare.

3. With respect to supply, how should the charges for any unbundled item be determined? Should the charges be determined by the utility or the CEP/Marketer?

The charges for standard offer service should be determined as a result of the procurement process (wholesale commodity costs), to which should be added the fully loaded retail costs of providing no-notice, "default" service. Commission regulations currently require that the, "standard offer rates shall reflect the costs of the supply arrangement(s) made pursuant to this section and the incremental administrative costs of the transmission and distribution utility to procure and manage the supply arrangements."[5] See Response to questions 1 and 2 for an illustrative list of retailing costs.

[4] The NYPSC has determined that, "one prerequisite to fostering market development is the conduct of cost studies, the ensuing assignment of costs to the utilities' various functions and services, and the establishment of fully unbundled, cost-based rates for electric and gas service." Case 00-M-0504, Order Directing Expedited Consideration of Rate Unbundling, issued March 20, 2001, page 1. The NYPSC described the process as follows, "The purpose of the Unbundling Track is to study and allocate utility costs between competitive and non-competitive functions and to establish cost-based competitive rates that would afford customers accurate price signals as they choose among the providers of services in the competitive market." Case 00-M-0504, Statement of Policy on Unbundling and Order Directing Tariff Filings, issued August 25, 2004, page 2.

[5] Ch. 301, Section 8(D)(3).

4. Should any unbundling requirements apply to bills issued by CEPs or Marketers?

Unbundling requirements should not apply to competitively-provided energy commodity, energy-related value-added services and products, or other products and services that the CEP or Marketer has contracted with the consumer to provide. The case for CEPs/Marketers is distinct from that of utility delivery monopolies due to differences in the underlying market structure. Utility delivery monopolies operate under cost of service regulation subject to Commission oversight to ensure just and reasonable rates. This oversight entails utility submission of cost of service studies to support the rates charged to customers. The regulatory ratemaking process, and tariffed rates derived therefrom, function as a proxy for competitive market forces. The regulatory compact with the utilities provides them with a franchise delivery monopoly under which they have an obligation to deliver the energy commodity in exchange for a guaranteed return of and on their capital. Unbundling utility rates and bills provides a necessary layer of transparency to the operations, costs and revenues of the utility monopoly.

Whereas the utility monopolies operate under cost of service ratemaking principles, Marketers and CEPs operate under competitive market principles that necessarily justifies the different treatment of rate and billing information. Creative product bundling is the essence of competitive markets. Bundling allows the CEP/Marketer to optimize the mix of products that are offered to consumers at the most competitive price. Indeed, the very basis of the CEP/Marketer business hinges on the manner in which they bundle offers and their ability to offer products and services at a competitive rate and in response to consumer preferences. Product bundling allows the CEP/Marketer to offer a consumer a variety of products from which to select the offering that best fits an individual consumer's needs. In comparison with the utility monopolies that earn a guaranteed return of and on their capital, CEPs/Marketers operate with

100% at risk capital. In the competitive marketplace, CEPs/Marketers must differentiate themselves and their products against their competitors to attract and retain customers, while balancing the risk of a continuously changing customer base. The manner in which competitive suppliers manage risk changes very frequently and to disclose this information would undermine the functioning of the competitive market and be administratively infeasible.

Unbundling the pricing of the separate components of CEP/Marketer products would reveal competitively sensitive information. To reveal the components of competitive supplier pricing would disclose individual supplier business strategies and plans. It would provide information on competitive positioning of suppliers that is intrinsic to each entity's business model and therefore highly confidential. In addition, from a practical perspective, contracts that the CEP/Marketer has with external vendors may prohibit the disclosure of the pricing of value-added services.

5. **Should the degree of bill unbundling vary by customer type, e.g., residential vs. industrial? If so, please explain how and why.**

All consumers will benefit from the increased transparency of utility bill unbundling.

6. **Should unbundling be limited to items for which the charge can be precisely calculated, e.g., electric transmission rates, or should it extend to estimated or illustrative amounts, e.g., renewable portfolio standard compliance costs? Please explain the response.**

See Response to Questions 1 and 2.

7. **Should unbundling of a delivery rate component require that the component be explicitly stated in the utility's tariffs or terms and conditions? Please explain your response.**

It is not clear on what basis the utility would be permitted to charge a rate that was not included in its tariffs or terms and conditions.

8. Please identify all components of delivery rates that can be precisely calculated at all times.

See Response to Questions 1 and 2.

9. Please identify all components of supply prices that can be precisely calculated at all times.

See Response to Questions 1 and 2.

10. Please identify the components of delivery rates that are currently separately stated in utility terms and conditions.

No response.

11. What level of detail should accompany any unbundled component to explain or describe it?

Unbundled rate components should be set forth in a manner that allows the consumer to understand the nature of the rate and differentiate it as being derived from a utility delivery monopoly function or from a competitive function. Commission regulation currently requires that, "[i]f the customer's bill for generation service is combined on the same bill with regulated charges for transmission and distribution services, the charges associated with competitive services must be separately identified and disclosed."[6] Further unbundling of utility rates and bills into monopoly delivery functions and competitive functions will provide consumers with a better, more informed basis upon which to compare prices and shop in the competitive marketplace.

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[6] Ch. 305, Section 4(B)(13)(b).

12. Is there an optimal or preferred number of pages for utility bills?

The optimal number of pages for utility bills requires a balancing between the considerations of providing consumers with the information they need to understand their energy usage and the charges related therewith with the costs of producing and disseminating the bill. One of the factors associated with informing and educating consumers is the ability of competitive suppliers to include line item charges on a consolidated utility bill so that they can offer increasingly differentiated products. Providing suppliers with more flexibility with respect to bill line items, enhances their ability to provide innovative products. Including additional supplier line items facilitates the provision of increased value-added services to consumers such as energy efficiency products, rebates, discounts, and the like. Suppliers are better able to provide consumers with innovative products if they have sufficient billing line items for their presentation. Relatedly, the supplier bill message should allow the CEP to communicate specific information to the consumer that it cannot convey elsewhere about the programs the consumer is participating in. Ideally, the CEP should be able to provide bill messages that are specific to an individual and/or to a group of customers to send targeted, relevant information. The bill messages should be capable of being changed with each billing cycle.

13. Please identify alternative ways to convey information to customers about the components of their delivery rates and supply prices, and comment on the relative pros and cons compared to bill unbundling.

In the absence of utility rate and bill unbundling, the consumer will be provided an incomplete, inaccurate basis upon which to compare competitive offers to the utility standard offer service rate. Utility rate and bill unbundling is a prerequisite to informed consumer shopping. While alternative methods could be employed to attempt to convey information to consumers about the components of delivery rates and supply prices, they would be poor proxies for the actual cost and rate information that can be gleaned from utility rate and bill unbundling.

Conclusion

NEM appreciates the opportunity to offer input into the Commission's review of further unbundling of electric and natural gas utility rates and bills.

Sincerely,

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