

Energy Choice Matters

February 11, 2008

POR Doesn't Fit Scope of Mass. Rulemaking, Parties Say

The Retail Energy Supply Association's push to implement purchase of receivables and other market changes in Massachusetts didn't garner much support from stakeholders who felt the suggestions fell outside of a DPU rulemaking (07-105) intended to update ex parte rules and reconcile codes to department changes (such as changing references to the old DTE to DPU).

RESA had suggested implementing POR for residential and small commercial customers, pointing to its use in Connecticut and New York. RESA added that current billing and deposit rules are a "significant market entry barrier" that aren't appropriate in the provisions of competitive services.

Residential customers, RESA noted, have 45 days to pay bills and can't be charged security deposits or late fees. Such rules, RESA argued, are unreasonable when compared to other services and commodities offered on a competitive basis.

Subjecting competitive retailers to the DPU's disconnect rules is inappropriate, RESA added, because customers still have access to basic service from the utilities if a competitive supplier terminates a contract. Customers' power is not turned off.

Deposit rules for C&I customers are especially "paternalistic" and aren't needed by the savvy facility managers buying for many customers, retailers argued.

RESA pushed for changes in the state's disclosure labels, noting the average price formula is confusing to C&I customers who get customized pricing. Average prices, RESA added, mislead customers since many products offered by retailers vary as often as hourly, and the disclosure

... Continued Page 5

Trigger Price, Standard Contract Are Talk of Calif. RA Rulemaking

California generators think the current trigger price that excuses load serving entities (LSEs) from procuring their local capacity requirements is ripe for discussion in a new rulemaking to tweak the local resource adequacy (RA) program.

The PUC opened an examination of its current local resource adequacy rules to improve the process since work on a centralized capacity market, if one is even adopted, won't be finished before 2009.

Currently an LSE can get a waiver from procuring capacity if bids for its obligations are above \$40/kW-year.

The cost assumptions which created that figure (including a \$73/kW-year cost of new entry [CONE]) are outdated, Reliant Energy argued, pointing to the over \$150/kW-year cost Southern California Edison is undertaking to build four new peakers.

Thus the \$40 cap is "too low as an unrealistic and problematic ceiling price that adversely affects bilateral RA markets," Reliant claimed.

The Western Power Trading Forum (WPTF) agreed, favoring elimination of a specific waiver trigger and suggesting the PUC examine waivers on a case-by-case basis. WPTF "believes that having a fixed number when the market is so dynamic is simply disruptive to the process of

... Continued Page 6

Peevey Draft Would Treat All LSEs Equally, Create GHG Cap-and-Trade

California would impose greenhouse gas (GHG) compliance on entities delivering power onto the state's grid while imposing the same renewable and energy efficiency standards on all load serving entities (including competitive retailers and municipals) under recommendations from PUC President Michael Peevey in a proposed decision (06-04-009).

Many of the policies are suggestions to the state's Air Resources Board (ARB) and could not be implemented by the PUC itself. The PUC suggested ARB may need to ask legislators for additional authority to impose some of the policies on munis and cooperatives.

A multi-sector GHG cap and trade system that includes the electric industry would be created for 2012 with compliance obligations imposed on the "first seller" of power onto the state's grid, a scenario called the "deliverer" proposal in the rulemaking.

Peevey found the deliverer method to be the best since it would capture emissions from electricity generated within California and electricity imported into California from out-of-state. Unlike other proposals (such as placing an obligation on retailers) the deliverer proposal would allow for integration and trading with other cap-and-trade systems which may develop regionally or nationally since they would likely be "sourced-based" as well.

The deliverer approach also avoids perverse impacts of other approaches that would have promoted self-scheduling of generation and reduced efficient dispatch, Peevey added.

The deliverer method wouldn't harm a potential reopening of direct access to all customers.

With greater retail competition, "[f]urther erosion of the vertically integrated portion of the industry and/or decreased reliance on long-term, unit-specific contracts would likely increase the amount of unspecified energy

flowing through California's markets," Peevey noted. "The deliverer point of regulation can best accommodate such a development as it does not require source-to-sink tracking of all transactions," he explained.

At least some portion of the GHG emission allowances available to the electricity sector would be auctioned under Peevey's draft, with some of the proceeds being used in ways that benefit electricity consumers in California.

Peevey seeks to create a "level playing field" among all of the state's load serving entities by making investor-owned utilities, public utilities (munis), electric service providers (competitive retailers), and community choice aggregators subject to the "same minimum requirements in the areas of energy efficiency and renewable[s]." He urged ARB to adopt mandatory levels of energy efficiency savings for munis and other LSEs not subject to the PUC's oversight.

Peevey recommended requiring munis to deliver at least 20% renewable electricity to their customers by a date certain, recognizing that 2010 [the date for IOUs] would not be realistic but that ARB should consider 2015 or 2017.

Peevey favors a collaborative, multi-agency process to seek legislation to boost the renewable requirement above 20%. While open to consideration of a target pending further analysis, Peevey noted the state's Energy Action Plan's target is 33%.

Md. PSC Staff Doubts BGE Home Retrofits

The Maryland PSC staff favors implementing all of Baltimore Gas & Electric's proposed energy efficiency measures except the Home Performance with Energy Star residential retrofit program, they revealed in a staff report (Mail Log # 108061)

The Home Performance with Energy Star (HPES) program would include online and in-home energy audits and comprehensive efficiency upgrades. It has the highest cost (\$60 million) relative to its estimated benefits, staff explained. "Although the program as a whole appears to be cost effective, HPES accounts for 86% total program costs but only 39% of total energy savings," staff cautioned.

“The cost of establishing audit programs, providing in home audits and getting customers to agree to undertake the most cost-effective changes in their home can be a daunting task for even a good salesperson; hence, the relatively low payback for this program,” staff elaborated.

“Although this program may have significant long-run market transformation benefits not captured by BGE’s analysis, Staff recommends that implementation of this measure should be postponed pending further program design review and consideration of a statewide programmatic or standards based approach,” staff reported.

Getting a thumbs up from staff were five other programs from BGE that gave incentives or rebates for buying CFLs, new construction with Energy Star appliances, HVAC replacements, and commercial lighting upgrades.

The programs are estimated to cut electric consumption in 2015 by 950 GWh compared to assumed consumption without the programs.

But the “aggressive EmPower Maryland savings targets are likely to require significantly higher program costs than currently proposed by BGE, with the resulting higher customer surcharges and higher costs to achieve savings,” staff found. Estimated savings from the portfolio are less than half of the implied EmPower Maryland target for BGE residential and small commercial customers as set in the Commission’s Order in Case 9111.

“The significantly higher savings levels required by EmPower Maryland are likely to require building and appliance code and building specialist licensing changes or much higher customer incentive levels,” staff concluded.

BGE’s portfolio of programs would cost approximately 2¢ per saved kWh and 34¢ per saved gas therm for the life-cycle of the various measures, staff reported. The maximum estimated average monthly bill increase for non-participants is \$1.76 or 1.2% of an average customer’s total electric bill (electric only customers) and \$3.19 for electric and gas customers.

Monthly bill savings for participants would range from 75¢ (electric and gas) and \$2 (electric only) to almost \$50 for combined electric and gas customers who take advantage of multiple program opportunities, staff noted.

PUCT Staff, Industrials Again Rail Against SWEPCO Plant

CONTINUING COVERAGE

Stakeholders had another round to debate the wisdom of AEP’s Southwestern Electric Power Company (SWEPCO) building a new 600-MW ratebased plant (Matters, 2/4/08) in replies to exceptions filed Friday.

The PUCT staff again hammered at customers’ liability for the coal-fired unit, arguing retail customers would end up subsidizing SWEPCO’s wholesale customers if the PUCT OKs the plant.

SWEPCO’s plan is essentially the same proposal the Commission quashed when Southwestern Public Service (SPS) pitched it in docket 32766, staff pointed out.

Instead of charging wholesale customers the marginal costs of serving those customers, the staff explained, SWEPCO seeks to add the plant to the ratebase of its retail customers, and charge its retail and wholesale customers the same generation costs. That would end up raising base rates by 33%, the staff found. The Texas Industrial Energy Consumers (TIEC) cautioned the pricetag could be even higher, noting SWEPCO has admitted the plant is behind schedule and over-budget.

SWEPCO wants to serve the wholesale market with retail customers being the “payers of last resort” if the plant’s costs end up being higher than other options wholesale customers could pursue, the staff added.

TIEC called the plant, “expensive, risky, and unnecessary,” and argued it would only provide less than 8% of SWEPCO’s generation capacity despite its hefty price.

“SWEPCO’s plan was to undercut the market prices in the competitive wholesale market, build expensive new generation in order to make wholesale sales, and, through the miracle of regulatory cross-subsidization, turn a handsome profit on the below-cost

wholesale sales and dramatically increase retail rates,” industrials hammered.

But SWEPCO defended its plan, noting that TIEC’s suggestion that SWEPCO rely on short-term power purchases from the market and new peakers isn’t tenable, and would not allow SWEPCO to keep its rates low.

SWEPCO reminded the Commission that its residential rates (using August 2007 data) were the lowest for any IOU, electric cooperative or municipality in Texas.

East Texas Electric Cooperative, a wholesale customer of the utility, favors SWEPCO’s plan too.

East Texas calls the ALJ’s draft decision the “first time” that a proposal for decision has excluded wholesale customer loads when calculating demand projections. East Texas reminded the Commission that Senate Bill 7 doesn’t allow competition to interfere with existing muni contracts or impede their access to wholesale markets.

Briefly:

DPUC: Conference on Peaker Pacts Not Needed

The Connecticut DPUC declined a request from PSEG Power to hold a technical conference to hammer out a revised contract for the winning bidders from the state’s RFP for peaking power (08-01-01). The DPUC is using a contract virtually the same as created after exhaustive stakeholder input in docket 05-07-14PH02, a contract executed previously by three generators and an energy efficiency provider in a previous solicitation, the DPUC noted. The contract has been tweaked to reflect a cost-of-service rate structure that the peakers will have under last year’s law. The DPUC thinks final tweaks to the contracts can be handled without a conference and plans to issue a redline draft for comment by March 3.

ISO Rejected DR Compromise, Industrials Say

CONTINUING COVERAGE

ISO New England rejected a “less harmful” alternative to fix potential gaming in its Day Ahead Load Response Program (DALRP), Maine industrials told FERC (Matters, 2/8/08).

Maine’s Industrial Energy Consumer Group had proposed freezing payments to DALRP participants that had a static baseline until the ISO received information satisfying the ISO that gaming was not occurring. Industrials also suggested that each participant be required to set a new baseline every six months. “This solution would have addressed the concern raised by the ISO without unfairly penalizing good faith participants in the program and without violating public policy,” IECG argued. The ISO did not support the plan and it was rejected by the NEPOOL Participants Committee, industrials told FERC (docket ER08-538).

NYISO Gets Waiver

FERC granted the New York ISO’s request to temporarily switch all New York Control Area generators to cost-based reference start-up levels under the NYISO Market Mitigation Measures and granted any tariff waivers needed for the switch. The change is to run through Dec. 1, 2008 as the ISO and stakeholders develop a solution to the problems identified by the ISO that could enable generators to inappropriately inflate their start-up reference levels (docket ER08-321).

Entergy-SPP Meeting Set

The Southwest Power Pool set for Feb. 21 the first meeting on its study of the possible integration of Entergy Texas (currently in SERC) into SPP’s power region. Stakeholders can register for the Austin meeting at http://www.spp.org/event_register2.asp?oID=1227 and a phone bridge will be set up as well. Retail competition by law cannot start in Entergy’s territory until it is part of a “qualified power region” with multiple generation suppliers that can facilitate a robust retail market. Entergy’s plan to join ERCOT received a cool reception by the PUCT and an RTO isn’t coming to SERC anytime soon.

Luminant Case Moves Forward

Two ALJs denied Luminant’s request to dismiss the PUCT staff’s notice of violation concerning market power the former TXU wholesale unit is alleged to have had in 2005

in details stemming from a Potomac Economics ERCOT report. The ALJs found Luminant's objections, including the correct definition of "market power," were questions of fact that should proceed to hearing and which cannot be decided on legal grounds alone (docket 34061).

DTE Gets Staff Nod in Texas

The PUCT staff recommended approving DTE Energy Trading's REP application. DTE's retail move into ERCOT is an outgrowth from its expansion of its Texas wholesale power trading and marketing operations, where the firm registered as a power marketer in October of last year. Serving ERCOT's retail market was an "additional growth opportunity" identified by DTE, it told the PUCT, and it has asked for certification to sell through the entire state. DTE also asked for permission to collect deposits and told the PUCT it has the "objective of providing service to any eligible customer throughout" the state.

Potentia Gets Final OK

The PUCT approved Potentia Energy's REP application, awarding it certificate No. 10157 (Matters, 2/6/08).

Md. PSC Reports on Net Metering

Maryland customers have installed 364 kW of distributed generation eligible for net metering, the Maryland PSC told lawmakers in a report. The current eligible limit for net metering, 1,500 MW, is "unlikely" to be reached in the foreseeable future, the PSC noted, and it recommended maintaining the current cap.

Austin To Pass on STP

Austin Energy won't be partnering with NRG Energy's expansion of the South Texas Project nuclear plant, citing financial risks and an optimistic timeline. NRG and CPS Energy are building the \$6 billion expansion which would include two new 1,350-MW units. Austin Energy owns 16% of the current two units. The Austin City Council will have the final say but a majority of councilors have said they will follow the muni's recommendation.

Social Networking for Energy Pros

Although focused more on oil and gas, Brandy Brazell Obvintsev, a Houston energy communications manager, launched www.EnergyPeopleConnect.com to be the "Facebook/MySpace" for the energy industry. The social networking site is to help combat the "talent crisis" in the industry.

Mass. POR From 1

rules open retailers to potential claims of misrepresentation. As written, the average price disclosure rules would force retailers to create an average price for every single customized deal, a huge burden for marketers and not beneficial to customers who already receive detailed price data from custom products, RESA noted.

But National Grid called the recommendations, "clearly beyond the scope of this proceeding," while Nstar submitted the same thought nearly verbatim.

Harsher were criticisms from Attorney General Martha Coakley, who opposed POR. POR, the AG claimed, "could shift the risk of nonpayment by customers of unregulated entities to the customers of a regulated utility," adding that if "utilities were allowed to profit from the purchase of receivables, utility resources could be diverted from less profitable operations -- providing regulated services." The AG didn't explain how POR could shift risks of nonpayment.

Competitive suppliers in the Massachusetts market should "be able to manage their accounts receivable," the AG chided, noting some of the suppliers "represent larger entities than some of the existing distribution companies in Massachusetts."

The AG opposed RESA's measures to tweak deposit and late payment rules. Without the rules, the DPU "loses a measure of control over the proper behavior of competitive suppliers in the Massachusetts marketplace," the AG cautioned. The AG added, "competitive suppliers in Massachusetts ought to be entities of sufficient strength to adhere to the existing billing, security deposit, termination of service, late fee and information disclosure labeling requirements in place."

Calif RA Rulemaking From 1

transacting for RA capacity.”

Most stakeholders favor faster consideration of a standard RA contract, but the California ISO, which would need to update its tariff language, isn't one of them.

Greater standardization in capacity products has been proposed as far back as 2004 and in November of last year Calpine and 17 other parties submitted a draft standard contract to create a more tradable and assignable product.

The Calpine proposal is “of critical importance in enhancing the transparency and liquidity of the RA market,” the California Large Energy Consumers Association (CLECA) and California Manufacturers & Technology Association (CMTA) wrote in favor of expedited consideration.

They want the PUC “to urge the California Independent System Operator (CAISO) to do its part by quickly launching a stakeholder process to develop the tariff modifications necessary to standardize generator obligations under RA as soon as possible.”

“This standardization is key to simplifying the RA contracting process by eliminating the necessity of each contract to address the generator's obligations, which, by their very nature, are to the CAISO and the system as a whole, not to the contracting LSE. If contracting between generators and LSEs is confined to price and location issues, these contracts will be much simpler to trade, buy, or sell, increasing the efficiency and the liquidity of the RA market,” the large consumers explained.

The current capacity market is “illiquid and time-consuming to navigate with each bilateral negotiation carrying a high transactional cost for generators, load-serving entities (“LSEs”) and California customers alike,” the Alliance for Retail Energy Markets (AREM) pointed out. The retailers want the PUC to “make clear to the CAISO the need for immediate action, beginning with a stakeholder process to address the illustrative tariff amendments submitted by Calpine.”

Even The Utility Reform Network (TURN)

asked the PUC to make consideration of the Calpine proposal a “first priority,” in the rulemaking.

But the ISO favored delaying review of a standard contract until Phase II of the proceeding at the earliest.

The ISO's “ability to marshal resources to engage in new initiatives at this time is limited,” with final work on its Market Redesign and Technology Upgrade (MRTU) ongoing.

Retailers weren't convinced. “The CAISO has known for more than four years that such a product was needed to improve market efficiency and that changes to its tariff are key. There should be no interference or crossed resources with the CAISO MRTU implementation because the Standardized RA Product has already been developed and agreed to by,” numerous parties, AREM noted.

Reliant agreed that standardization should “facilitate transactions and increase market liquidity,” but cautioned the standard product “will do nothing to solve the continuing lack of forward price transparency.”

While supporting a tradable capacity contract, San Diego Gas & Electric cautioned the PUC against mandating its use. Some “procurement transactions are quite dynamic, with party, temporal, and location specific nuances that require freedom and flexibility beyond what a standardized form can provide,” SDG&E reminded. The “final decision to use a standardized agreement should remain a commercial one, unencumbered by regulatory mandates set in place far from the negotiation table,” the utility argued.

SDG&E also reiterated its view that “a stable and efficient long-term RA mechanism requires implementation of a centralized capacity market.”

AREM wants the PUC to examine how demand response (DR) RA credits are assigned to LSEs. Currently, demand response credits are allocated by load-ratio share to LSEs.

But most demand response customers are C&Is, AREM noted, where direct access participation is much higher. Electric service providers (ESPs) “may have a 5% load share

in PG&E's service territory and, therefore, receive 5% of the RA credits for DR. However, the ESP may actually have customers that constitute 20% of the DR program," AREM explained.

"Some large customers are concerned that they are unfairly shouldering the capacity burden of peak shaving for California, yet are forced to buy redundant RA capacity through their LSEs," retailers added.

The Division of Ratepayer Advocates (DRA) asked the PUC to consider how an Electronic Bulletin Board might be implemented and funded. The bulletin board would provide a vital service to the market, increase price transparency and liquidity, and assist with the problem of load migration, DRA explained.