Energy Choice Matters
March 31, 2008

Illinois Amendment Would End Mass Market Gas Choice

A proposed amendment in the Illinois House would kill mass market retail gas choice in the state.

Although not formally introduced, what would be Amendment 1 to HB 5467 would prevent Alternative Gas Suppliers from enrolling new residential and small commercial customers, and would limit such mass market customers to taking regulated service from their LDC.

Once AGS's existing mass market contracts have expired, suppliers would be forced to drop customers back onto bundled LDC service. The legislation doesn't define "expiration" and it's unclear whether the law could breach evergreens or contract renewals.

The ICC would be prohibited from approving new AGS's and current licenses would be voided once an AGS's existing contracts expired.

The bill represents the proverbial "other shoe" we warned about when Attorney General Lisa Madigan filed suit against U.S. Energy Savings over alleged deceptive practices, which was followed by a formal complaint by CUB at the ICC (Matters, 2/15/08). Madigan is believed to have authored much of the provisions of the amendment.

The House's Public Utilities Committee will hold a hearing on HB 5467 on April 1, where it is expected the amendment will be introduced.

BGE Rate Credit Is For All Residential Customers

The approximately $170 rebate that's part of the settlement between Constellation Energy and Maryland (Matters, 3/28/08) is to go to all Baltimore Gas & Electric residential customers and would be competitively neutral, the energy conglomerate assured us Friday.

The actual settlement agreement, while not excluding shopping customers, also does not explicitly include "all" residential customers as eligible for a rebate, or defining whether a "customer" is a bundled or delivery-only ratepayer.

Rather, the pact simply says, "BGE shall credit to its Maryland residential electric customers a total of $187 million in the form of a one-time bill credit to residential customers – expected to be distributed no later than December 31, 2008, subject to passage of legislation required in Section 6 of this Settlement Agreement."

The proposed legislation requires a "one time total credit of $187 million to be divided into equal dollar amounts and credited against residential electric customer bills no later than December 31, 2008."

Competitive retailers may want to keep a close eye on the situation, since, as we saw with rate credits in the Ameren territory of Illinois, rebates which are provided generally but are silent to their explicit applicability to distribution-only customers can end up being implemented differently than intended.

Conn. Retailers Can't Refuse Service Based on Credit Score, DPUC Draft Notes

The Connecticut DPUC would affirm that competitive retailers may not deny service to residential customers on the basis of a credit score, in a draft decision granting Horizon Power & Light an electricity supplier license (08-01-13).

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Md. PSC Staff Favor RM17 Adoption as Published

The Maryland PSC staff recommended that the Commission adopt COMAR 20.53 as published and reject protests from two utilities over changing the current payment order for electric receivables (RM17).

Staff rejected the latest protests by the utilities over the proposal which would dictate that utilities choose between pro-rating partial payments equally among distribution and commodity charges, or implementing POR.

"Whether the Commission changes its own payment posting hierarchy is a policy decision and not a legal one," the staff affirmed in response to arguments from Pepco that the Commission did not have authority to implement POR since Pepco considers it a competitive, not a regulated, service (Matters, 2/20/08).

"Both pro rata sharing and POR offer more stable treatment of partial payments than the current hierarchy," staff added. Under the current system, where a customer's current electric supplier is placed at the end of the hierarchy, "suppliers pay for a billing service that might provide them with no money for services rendered even when payment, albeit partial, is made," staff observed.

"The current system also indirectly discourages suppliers from serving all customers with the result that suppliers select customers with better payment histories while customers receiving energy assistance may be less likely, regardless of their credit score, to receive an offer from a retail supplier," staff added.

"It is not clear that either POR or pro rata sharing, if adopted by a utility, will significantly change the utility's uncollectible rate. The same customer group will be purchasing the same commodity. There is no reason to believe that the payment habits of this customer cohort will change. This is especially true if the purchased receivables become utility charges for termination purposes because the receivables would be rolled into the utility's collection processes," staff explained.

Baltimore Gas & Electric's proposal to allow utilities to treat the purchased commodity receivables of a supplier as utility charges for the purposes of adjusting deposits may offer some protection for utilities and customers, staff noted, and should be considered at a later date as a possible amendment, but not included in the current rule for adoption.

The staff rebuffed the Office of People's Counsel request to postpone a final vote on RM17 until legislators give clear guidance on whether retail competition will remain a policy priority.

"[I]t would seem that a robust retail market in Maryland is in the interests of all stakeholders," the staff explained. Enacting needed reforms to retail market protocols does not mean the Commission must solely rely on the retail market for policy goals and in no way hampers the Commission's efforts in other areas, staff stressed.

Staff dismissed utilities' concerns about needing more time than 45 days to comply with some of the required changes, noting the regulations have been under consideration since July 5, 2005.

"Staff expects that the electric companies have by now given some consideration to the planning and changes necessary to compliance [sic] with the regulations as proposed."

Still, if utilities do need more time, they can request a waiver of the 45-day period for good cause under COMAR 20.53.01.05.

Staff also urged the PSC to keep the proposed 12-day enrollment and drop period, since it is "sufficiently generous to allow switching that meets the needs of suppliers and electric companies." Pepco had urged lengthening the proposed window to 15 days.

N.Y. PSC Firm on Capacity Release

The New York PSC rejected two of marketers' biggest complaints regarding its capacity release policy but did order NYSEG, Rochester Gas & Electric and Corning to revise how they calculate ESCOs' capacity eligible for grandfathering or exemption from the mandatory capacity release requirement (07-G-0299).

The PSC affirmed that the program is

designed to exempt capacity used by marketers needed to supply the core customer load that the ESCO actually serves.

Thus, the PSC denied U.S. Energy Savings' position that it should be allowed to indefinitely grandfather capacity secured in compliance with effective utility directives to meet its reliability obligations for the 2007-08 winter heating season, rather than only the capacity needed to serve the requirements of a limited number of core customers actually served at a certain date.

Energy Savings had bought extra capacity in anticipation of enrolling more customers over time for its five-year product, but the PSC insisted the program is designed to match the current *load* served by ESCOs (not their total capacity holdings) and the amount of capacity eligible for exemption from the requirement that LDCs maintain necessary pipeline capacity for core customers.

The PSC also stressed that grandfathered capacity levels should decline when an ESCO's core customer load decreases, dismissing an objection from Hess.

"The reserved pipeline capacity is related to the need to serve customers. If the marketer is no longer serving certain customers or customer load decreases, then the utility will need to assure capacity availability for the customer load," the PSC explained.

"The grandfathering exemption does not involve any indefinite right to a specific level of grandfathered pipeline capacity, without regard to the ESCO load served."

But the PSC did accept Hess's protest over the proposed one-day snapshot NYSEG, RG&E and Corning wanted to use to measure an ESCO's capacity eligible for grandfathering.

The utilities had proposed measuring ESCO capacity on April 1 of each year, but that narrow view would ignore monthly fluctuations in customer use, Hess noted.

The Commission agreed, and ordered the three utilities to adopt a policy mirroring National Fuel Gas's program, which determines ESCO capacity eligible for exemption by examining the ESCO's peak day load over the previous 13 months.

REPs Push to Settle All Customers on Actual 15-Minute Data

A newly created residential load profile similar to the profiles used by ERCOT today to settle IDR metered accounts, or the lagged dynamic profiling method currently being espoused by ERCOT, is a "more efficient and effective way to settle the retail market," rather than using actually 15-minute data, Oncor suggested in answering the PUCT staff's questions on advanced meters (Matters, 3/26/08).

But Constellation NewEnergy called it "absurd" to use something other than actual meter reads for wholesale settlement when the actual meter reads are available (34610).

Noting that ERCOT market design follows the principle of cost causation, advanced meters would allow the average cost approach imposed by load profiles to be removed, NewEnergy explained.

"For instance, churches use most of their electricity on Sundays or Wednesday evenings, when real-time prices are typically low. Those churches that are profiled are assigned to a generic business class profile that is inconsistent with their load shape. While ERCOT could develop a special profile for churches, one for convenience stores, and a profile for every other unique load shape, it is much more practical to use their actual consumption as recorded on an advanced meter. Using consumers' actual load shape eliminates deadweight losses created from charging based on average profiles that are either too high or too low," NewEnergy told the Commission.

NewEnergy also pointed to the lack of full settlement of advanced meters as, "one of the largest barriers to demand response programs moving full steam ahead."

Reliant Energy shared NewEnergy's preference for use of actual 15-minute data for settlement, arguing that the, "primary advantage of advanced metering that accrues to the market overall is the improved accuracy of settlement to be gained by the availability of actual 15-minute interval data."

"If this data is available, but is not used for the settlement process, a significant benefit of

advanced metering deployment is lost," Reliant added.

American Electric Power, CenterPoint Energy and Texas-New Mexico Power, filing jointly, don't believe that providing 15-minute settlement-quality usage data more frequently than monthly is either necessary or practical.

The joint TDSPs suggested a central data repository if more frequent provision of settlement-quality data does prove necessary.

Using the current Texas SET 867-03 won't be sufficient to support the volume of data required to settle all, or a substantial portion of, deployed advanced meters on 15-minute interval data, Oncor told the Commission.

The 867 process may be adequate for initial deployment and for some period of time as deployment ramps up, but as the number of advanced meters deployed increases, TDSPs will reach a point at which the volumes of data stored, transmitted and processed will become too costly, Oncor explained.

Oncor won't be in a position to provide 15-minute, settlement quality interval data from deployed advanced meters until mid 2009 at the earliest, and then only after settlement quality requirements have been set by the PUCT.

Oncor expects it will take eight to eighteen months from the date market participants determine the appropriate settlement solution before it will be able to fully develop a new system that will provide 15-minute settlement quality interval data for all deployed advanced meters.

Calif. PUC Sets Path for Second Phase of Direct Access Review

Phase II of the California PUC's investigation of lifting the suspension of direct access will be split into two stages after a ruling from PUC President Michael Peevey on Friday (R. 07-05-025).

Phase II(a) will first consider measures to facilitate ending the Department of Water Resources' role as supplier of power to retail customers, with an initial priority being the review of the relevant impacts of potential policies on IOUs, retail customers, and DWR Bondholders.

The PUC will evaluate DWR assigning current power contracts to the IOUs or another third party, having DWR sell power to the wholesale market instead of retail customers, or a combination of such policies.

Phase II(b) of the proceeding will address the substantive merits of reinstating direct access and relevant market prerequisites whereby direct access would be in the public interest.

Phase II(b) will include a review of conditions needed to create the wholesale market and regulatory stability conducive to the proper functioning of a competitive retail market.

The PUC added a question regarding the effects of potentially stranded costs and protections needed for bundled customers to the list of issues for Phase II which appeared in the original Order Instituting Rulemaking.

Among other issues for Phase II(b) are examining incentives needed to develop and retain sufficient generation capacity if direct access is reinstituted and determining the form of market design needed to enable load to migrate from one LSE to another without creating stranded capacity costs, or excessive shortage-induced costs.

A pre-hearing conference is set for April 11.

Briefly:

Tower Files Complaint Over Funds Withheld by PJM

The Tower Companies filed a complaint at FERC against PJM Friday, alleging that PJM is in violation of its tariff for refusing to return excess collateral requested by Tower affiliates and refusing to distribute revenues from congestion rights (EL08-49). The Tower Companies, due to the default of one of its affiliates, are the subject of a PJM complaint alleging FTR and day-ahead energy market manipulation (Matters, 3/28/08). PJM has withheld over $25 million since January 2008, Tower reported, adding that FERC specifically rejected PJM's proposal to allow it to withhold collateral from companies whose affiliates are in default (Matters, 3/26/08).

PUCT Ends Separate Profile for SESCO EFLs

The PUCT in a final order issued Friday adopted staff's recommended updates to load profiles used when calculating prices for Electricity Facts Labels, including ending a separate load profile for the TXU/Oncor SESCO area and allowing REPs to use the standard Oncor load profile for SESCO (26793, Matters, 3/21/08). The SESCO-specific EFL had acted as a barrier to market entry and the change should encourage more REPs to offer products in the SESCO area

Conn. Credit Rules... *From 1*

Horizon applied to serve both residential and commercial customers throughout the state.

Its standard service contract submitted as part of the application process states Horizon may perform a credit check on new customers and elect not to enroll customers based upon the credit check results. Its customer service plan submitted to regulators states that Horizon only accepts residential customers with a credit score of 620 or higher.

That would change under the DPUC draft.

Citing Conn. Gen. Stat. § 16-245r, the Department noted that electric suppliers shall not decline service to a customer for the sole reason that the customer is located in an economically distressed geographic area or that the customer qualifies for hardship status under Conn. Gen. Stat. § 16-262c. While Horizon believes its credit screen complies with the statute, the DPUC disagreed in its draft.

"Horizon's blanket policy of denying service to residential customers with a credit rating score below 620 will have a direct impact upon applications from hardship customers," the DPUC explained.

Under the draft, Horizon would be ordered to remove the minimum credit score requirement from its standard service contract and submit a revised contract and customer service plan.

Horizon currently serves 15,000 residential and commercial customers in Massachusetts, Maryland, Delaware and the District of Columbia. It expects to meet its Connecticut load through a wholesale power purchase agreement with Coral Power. Horizon will use Energy Service Group for EDI transactions.