Energy Choice Matters

April 1, 2008

POR Would Come to Consumers Energy Under Draft Decision, But Retailers Would Lose on Inter-Class Subsidies

An ALJ recommended adopting a proposed POR program offered by the National Energy Marketers Association in a draft decision in Consumers Energy's rate case (U-15245).

Before retailers break out the champagne glasses, the ALJ also found that retail access customers should pay to subsidize the residential rate class.

First, some of the good news. The ALJ recommended without modification a POR proposal that would not include a discount on receivables. The non-recourse program is appropriate since bad debt expense relating to both generation and distribution is recovered from retail access and full-service residential customers alike through their payment of Consumers' uniform distribution charge, the ALJ found.

Implementing the POR program poses little, if any, danger to Consumers' bottom line, the ALJ observed, noting that Consumers uses POR for its retail gas choice program.

"Thus, based on its potential to increase the availability of [retail access] programs directed to residential and small commercial customers within Consumers' service territory, the Commission [sic] recommends that the Commission adopt the NEMA's proposed POR program," the ALJ urged.

The ALJ also rejected Consumers' proposal to end utility consolidated billing (called complete or structured billing). Consumers had argued retailers have not elected to use that option, but the ALJ noted retailers have started using a similar billing model in Detroit Ed. As residential subsidies are eliminated, giving retailers a greater chance to compete, a mass market billing

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New Conn. Retailer Would Package Commodity, Energy Management for Medium C&Is

Energy management firm DBS Energy sees a good opportunity to serve "middle market" C&I customers in Connecticut, it reported in an application for a supplier license (08-03-21).

DBS Energy is to focus on serving commercial, industrial, and municipal customers between 50 kW and 350 kW — customers it sees as not necessarily the highest priority for acquisition by larger competitive suppliers.

Those customers, "represent a very large number of customers throughout Connecticut and also represent a significant component of economic activity and employment," DBS Energy noted.

But middle market customers, "do not have the expertise or the ability to internalize energy management disciplines," DBS added.

Therefore, DBS sees an opportunity to help those businesses proactively manage their energy costs and obtain the highest level of energy services in the future.

DBS's management has over 15 years of experience in providing comprehensive energy management services to the municipal, commercial, and industrial markets in Connecticut. Its customer portfolio includes over 30 municipalities and 600 C&Is.

Its energy management products have included lighting retrofits and other lighting controls,

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Hedging, Retail Price Cuts Cited in Energy Future Holdings Loss

Hedging and price cuts led to a sharp decline in earnings at Energy Future Holdings, parent of TXU Energy, Luminant and Oncor. The privately held conglomerate reported a net loss of $637 million for 2007 on a combined basis, compared with net income of $2.5 billion in 2006.

Over $2 billion of the loss was attributed to special items including $1.5 billion in unrealized mark-to-market net losses and nearly $500 million from cancelling plans to build eight coal-fired power plants in ERCOT. Mark-to-market net losses were virtually all related to forward (2008-2013) natural gas positions in EFH's long-term hedging program.

Aside from those special items, EFH saw decreased earnings because of lower retail pricing due to a 15% residential price cut at TXU Energy, lower retail volumes due to a cooler summer, higher expenses in the company's competitive businesses, primarily for marketing and improved capabilities in TXU Energy, lower ERCOT heat rates and reduced wholesale activities, and higher coal costs paid by Luminant.

BGE Submits Prices for Peak Pilots

Baltimore Gas & Electric has submitted prices for its Dynamic Peak Pricing pilot for approval by the Maryland PSC.

Under the peak pricing pilot from June 1 through Sept. 30, participating customers would pay an all-in price of $1.27/kWh for critical periods, which occur on 12 business days during the pilot from 2 p.m. to 7p.m.

Peak rates, in effect from 2 p.m. to 7 p.m. on all business days other than the 12 critical days, would be 11¢/kWh while off-peak rates in effect at all other times would be a mere 6¢/kWh.

BGE is also offering a Peak Time Rebate pilot which will be split into two groups, customers receiving high rebates and customers receiving low rebates.

Under the rebate programs, customers have two rating periods: standard and critical peak hours. The customer pays the current standard rate per kWh under Schedule R at all times.

However, during the specified critical peak hours, customers are awarded a rebate for each kWh that they reduce consumption compared to their baseline load.

If the customer uses more kWh as compared to the baseline during critical peak hours, they continue to pay the current standard rate and are not penalized.

BGE proposed paying a high rebate of $1.75/kWh reduction and a low rebate of $1.16/kWh reduction.

The rebate program will include 750 pilot customers while the dynamic peak pricing pilot will include 250 pilot customers.

New Brunswick Power Decries Judge Shopping in MEPCO Talks

A plea from Casco Bay Energy to "reboot" the settlement process regarding rolling Maine Electric Power's (MEPCO) line into ISO New England Regional Transmission Service should be denied, New Brunswick Power Transmission told FERC (ER07-1289).

A new line connecting the U.S. And Canada partially built by New Brunswick Power has been caught up in Casco's dispute over grandfathering its rights on the existing international tie owned by Main Electric Power (Matters, 3/17/08).

Casco last week asked FERC to establish a new settlement process instead of continuing current talks.

Since Casco won a victory in October when FERC affirmed some its contractual rights survived the roll-in of MEPCO, Casco's actions have been "bizarre and puzzling," New Brunswick Power told FERC.

Although Casco does not oppose raising the New England-New Brunswick transfer limits to reflect the introduction of the new line, Casco has, "effectively held the Line hostage to its dispute with MEPCO," New Brunswick Power claimed, noting the ISO has not adjusted the transfer limits due to the litigation.

"This stalemate must end promptly," New

Brunswick Power urged. It is "simply untenable" that a "routine regulatory dispute" is denying customers $100 million in benefits from the new line.

"Casco Bay's obviously engaging in judge shopping," New Brunswick Power charged.

Casco in its plea for new settlement procedures opposed broad discovery, but New Brunswick wondered why Casco opposed discovery if the facts support Casco's position.

H.Q. Energy Services also objected to new settlement proceedings, suggesting Casco should contest the settlement through litigation if it feels it can't get what it wants from the settlement process.

"It would chill settlements if a party could terminate and restart settlement proceedings whenever it grew displeased with the way current settlement proceedings are going," HQ cautioned.

The settlement judge confirmed that a conference scheduled for today will indeed be held.

N.Y. PSC Accepts Tariffs for New Curtailment Rules

The New York PSC accepted tariffs reflecting new curtailment polices for all the LDCs except for Consolidated Edison and Orange and Rockland (06-G-0059), which must modify their tariffs.

In August the PSC ordered that when a LDC curtails a non-core ESCO or customer, the ESCO or customer is to be compensated for the gas diverted from it at the higher of the market price in effect during the time of the curtailment or the price established in the customer's contract.

When utilities first made their compliance filings, Consolidated Edison, Orange & Rockland and National Fuel Gas included in their tariffs a provision that ESCOs or customers had to show to the LDC's "satisfaction" that a higher-than-market price for compensation is contained in the customer's contract.

Multiple Intervenors objected to that requirement as inconsistent with the PSC's original guidance.

But the Commission found the LDCs' language to be appropriate, "because LDCs must exercise judgment in evaluating reimbursement claims."

If an ESCO or customer believes an LDC has improperly denied a reimbursement claim, it may file a complaint, the PSC noted.

ConEd and O&R also added language to their tariffs limiting reimbursement to a curtailed ESCO or customer to circumstances where there is no "evidence that the contract price changed as a result of the curtailment."

That language isn't needed, the PSC found, ordering it to be struck from the two LDCs' tariffs.

Briefly:

National Grid Finds Buyer for Queens Plant

TransCanada has agreed to buy the 2,480-MW KeySpan-Ravenswood power plant in New York City from National Grid for $2.9 billion. National Grid was ordered to divest the plant by the PSC when buying KeySpan.

FirstEnergy Solutions Wins Green Deal

FirstEnergy Solutions inked its largest green supply contract, with the University of Pittsburgh Medical Center for 24,000 RECs of FES's MixedGreens product. That equates to 10% of the medical center's load. FES reported it has 145 MW of wind capacity available to it from wind farms in western Pennsylvania with another 70 MW coming online this year.

Tara Sponsoring Astros Opening Festival

Tara Energy will be the presenting sponsor of Clear Channel Radio's Astros Opening Day Street Festival for the second consecutive year.

PUCT OKs Ambridge Name Addition

The PUCT approved Ambridge Energy's request to add the trade name Guaranteed Electric to its REP certificate (35427, Matters, 3/6/08).

Consumers POR ... *From 1*

option such as utility consolidated billing may be more widely used, the judge concluded.

But as the bad debt barrier would be removed from the market, the draft decision would impose another significant hurdle on competition – making choice customers pay the same inter-class subsidies imposed on full service customers.

Consumers estimates that residential customers currently enjoy a $114 million annual subsidy paid for by other classes, though the PSC staff pegs the amount at $73 million. As part of its proposal to "deskew" those rates, Consumers wants to impose the same subsidies currently paid by bundled customers on retail access customers, who have thus far been able to bypass the charges.

Retailers warned such a change would be "catastrophic" to choice and is unwarranted since choice customers already subsidize full service customers through the Securitization Bond and Securitization Tax Surcharge, and also pay stranded cost charges.

The subsidies include a generation-related subsidy that is not germane to the distribution system or service used by choice customers, marketers added.

But, "the mere fact that [retail access] customers do not rely directly upon Consumers for the generation of electricity is of little matter when it comes to determining whether they should join full service customers in providing recovery of the residential subsidy," the ALJ concluded.

"Nothing in the record serves to associate a specific portion of the existing subsidy with any of the functionally unbundled costs allocated to a particular rate class," the judge added.

The judge found that a five-year deskewing process would be appropriate.

The draft decision would also ease shopping restrictions for residential customers.

The ALJ agreed that, "as asserted by everyone but Consumers, the currently applicable notice and minimum stay provisions place an excessive burden on residential customers."

Thus residential customers should be exempt from the exit fee and minimum two-year retail access stay provisions set forth in the utility's current rates, the judge concluded.

To provide some certainty in future planning, residential customers returning to utility service from retail access would have to stay for 12 months. C&Is would still be subject to the current minimum stay and notice rules.

The ALJ also favors Commission-provided educational assistance to residential customers regarding competition, since, referencing NEMA testimony, deskewing is likely to raise rates and make retail access more attractive to residential customers.

The draft recommends that the Commission follow-up its order on final rate relief with educational efforts such as consumer alerts, website information, mailing brochures, newswire releases, and community forums.

Under the draft, Consumers would also have to provide competitive retailers with all current balancing and energy delivery requirements data to increase transparency.

The ALJ dismissed Consumers' proposal to not notify competitive retailers beforehand that retailers' customers' service is scheduled to be terminated due to non-payment of distribution charges. Rather, Consumers proposed only sending a notice after the shut off.

The ALJ rejected that plan since it would cause operational and financial burdens for retailers, who may still schedule power to serve terminated customers. Keeping the advanced notice rule currently in place would not harm Consumers, the judge wrote.

A workgroup or proceeding to address enhancing Consumers' EDI functionality isn't appropriate at this time, the ALJ noted, because Consumers is currently upgrading its computer systems.

The ALJ recommended approving Consumers Energy's proposed "Electric Choice Incentive Mechanism" (ECM) to smooth the impacts of fluctuations in competitively served load.

The ECIM is similar to the Choice Incentive Mechanism at Detroit Ed.

The ALJ rejected protests over the mechanism from the Association of Businesses Advocating Tariff Equity (ABATE)

and the Attorney General, who argued the flat shopping levels at Consumers made the mechanism unwarranted.

But competitive load levels have been “gyrating wildly” since choice began, the ALJ concluded. “Specifically, in the five full years following Consumers’ implementation of [retail access] for which historical data exists -- namely 2002 through 2006 -- annual fluctuations have ranged from a 64% decrease to a 227% increase,” the ALJ reasoned.

The draft would provide many sound policies to help retailers compete in the market, through POR, increased education, and balancing energy transparency, but the success of choice may ultimately hinge on the question of inter-class subsidies.

Looking beyond Michigan for a moment, getting another PSC to approve POR should help push regulators on the fence in other states to accept POR as a standard industry practice that does not harm ratepayers. But should the inter-class subsidies inhibit choice at Consumers, another POR program that isn’t accompanied by growing shopping levels (such as the POR offered at Atlantic City Electric) could give fodder to the argument POR does not, in fact, expand choices and thus isn’t worth the risk.

DBS Energy ... *From 1*

energy efficient motor installation, building management systems, wireless real-time metering of electricity and natural gas, cogeneration, fuel cell installation and ISO New England demand response programs.

The firm’s expertise in the areas of energy management, load management, and real-time metering, “provide an excellent opportunity to marry these services with electric commodity services,” to provide unique packaged and custom products to customers, it told the DPUC.

DBS also asked to be certified to sell to residential customers.

Erik Bartone is President of DBS Energy. Previously he was president of energy management and technology firm Nxegen and has also held positions at Northeast Utilities.