Energy Choice Matters
April 16, 2008

Hess Protests Added Tolerance for Single NSTAR Gas Customer

A proposed gas balancing agreement between NSTAR and the Mirant Kendall gas-fired power plant, which would give Mirant an additional 5% imbalance tolerance above the imbalance tolerance provided in the DPU's model terms and conditions for suppliers, could result in the, "competitive detriment of other customers and their suppliers," Hess told the DPU in a late filing (08-GC-1).

In February, NSTAR asked for permission to give Mirant the added tolerance as a condition of a deal struck between the two parties that saw Mirant drop opposition at FERC to a gas transportation agreement between NSTAR and Algonquin Gas Transmission.

The intervention deadline was March 10 but Hess only became aware of the potential market harm recently. No other marketers or trade group had intervened, and only the AG and Massachusetts Institute of Technology are parties to the case, aside from NSTAR, Mirant and DPU staff.

Hess is concerned the added flexibility afforded to Mirant could boost NSTAR's need for operational flow orders (OFOs), particularly on cold winter days. If Mirant's treatment results in higher OFOs, marketers and their customers will be burdened with higher costs, Hess said. NSTAR has claimed the pact won't harm system reliability.

Hess reminded the DPU that the model terms and conditions were the result of extensive negotiations among all stakeholders, and provide equitable treatment for all customers and suppliers. NSTAR does not justify granting special treatment for a single customer, Hess argued.

"Furthermore, approval of an exception to the Terms and Conditions could open the door to a

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PSC Staff Makes Case for Full Divestiture of Generation In Energy East-Iberdrola Deal

Iberdrola's acquisition of Energy East (Matters, 4/9/08), "poses unacceptable risks to the interests of NYSEG and RG&E ratepayers," New York PSC staff argued in an initial brief (07-M-0906).

"These risks would arise out of the ownership of NYSEG and RG&E by Iberdrola, a company that: engages in numerous un-regulated businesses in both the U.S. and elsewhere that are financially risky; has invested heavily in lightly-regulated or federally-regulated U.S. energy businesses; and, operates delivery utilities and generation facilities across Europe and Latin America," staff explained.

"Moreover, besides the risks that attend an operation of such scope and scale, Iberdrola faces financial risk as a result of its ambitious investment goals, the potential for its involvement in other acquisition transactions, and the goodwill it will carry on its books if the transaction closes," staff added.

NYSEG and RG&E ratepayers would not be shielded from those risks, staff cautioned, noting the petitioners haven't met their burden in showing the merger would pass the public interest test as it has been used in previous Commission decisions, including the National Grid- KeySpan deal which was approved less than a year ago.

"Iberdrola's acquisition of Energy East also poses an unacceptable potential for the exercise of vertical market power, because the transaction will combine into one holding company the

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CL&P Billing Problem Causing Big Headaches for Retailers, TransCanada Reports

TransCanada Power Marketing asked the DPUC to require Connecticut Light and Power to issue cancellation transactions relating to its billing problems (Matters, 4/15/08) as mirror images of the original transaction that it's attempting to correct.

CL&P's method of issuing cancellation transactions makes it impossible to know exactly which original billing transactions were incorrect, TransCanada told the DPUC (08-02-06).

There is not an identifier on an EDI usage transaction to automatically signal to suppliers that a cancellation transaction is being issued to correct a previously issued usage transaction that was issued incorrectly, TransCanada explained.

Most, if not all, other New England utilities issue cancellation transactions by issuing a cancellation that is an exact mirror image of the original transaction, TransCanada claimed. The service start dates, service ends dates, on peak kWh, off peak kWh, and shoulder kWh are identical.

That allows competitive suppliers to systematically identify the original transaction and original invoice that needs to be credited back to the customer in its entirety and make whatever arrangements needed for rebilling.

CL&P instead uses what TransCanada calls a "net" cancellation method, in which the cancellation transaction frequently cannot be matched back to the original usage transaction. The dates may be different, the kWh may not align, or the cancellation transaction may have the total kWh entered as on peak kWh, rather than using the same on- and off-peak breakdown as the original transaction.

Those types of transactions can't be processed normally and require manual interventions, TransCanada explained, which delays customer invoicing. The use of three separate invoices -- an original bill, credit invoice, and rebill -- are "understandably confusing to customers," TransCanada observed.

The lack of usage split by peak and off peak is problematic in corrections, TransCanada noted, because under a contract a customer may incur different charges for use at different intervals, both for energy and other charges, such as congestion or reliability must run fees.

Unanticipated deviations from CL&P's meter read schedule in some cases have resulted in a significant change in the timing of customer transitions from one competitive supplier to another, TransCanada added.

The end of the calendar year is the time when suppliers see the heaviest volume of customer contracts expiring, which logically results in the period of greatest churn.

Contracts are based on expected meter read dates, since that is when switching and new service initiation occurs.

But CL&P has rebilled on a calendar month basis rather than around meter reads, not keeping with a customer's expected billing cycle, TransCanada noted.

That could have financial consequences for customers and suppliers. A delayed switch could cost customers more money if they were moving to a cheaper supplier, and could force suppliers to buy more expensive spot market power to supply a customer they expected to transition to another provider.

It's difficult for TransCanada to cite specific examples of harm from delayed meter reads because rebilling is ongoing, but in one instance, a delayed customer switch cost TransCanada $57,000, it told the DPUC.

TransCanada has concerns whether its load assets with ISO New England will accurately match the billing and rebilling that CL&P has performed when the process is completed, especially when considering customer churn.

When CL&P issues a usage transaction to TransCanada in early April for a customer that TransCanada was supposed to stop serving in early January, is CL&P resettling TransCanada with ISO-NE at the same time, or have deadlines for resettling the prior month's loads expired, TransCanada asked.

Such load asset concerns have been an ongoing issue for suppliers, even outside of CL&P's billing problems, TransCanada noted.

CL&P and other utilities may not give sufficient consideration to the impact on suppliers when the utility resettles a customer account for a period long gone by, but is not, or is not able to, also resettle the supplier load asset with ISO-NE, TransCanada cautioned.

TransCanada has incurred “thousands” of dollars in additional administrative costs from CL&P’s billing problems, it told regulators.

PJM Moves to Curb Phantom Demand Response

PJM proposed changes at FERC to its economic demand response program to ensure economic demand response reflects a true response to price.

“Beginning in 2006, PJM began seeing denials of Economic Load Response settlements by electric distribution companies and Load Serving Entities because they questioned the validity of the demand response settlements,” PJM reported. The disputes continue today, demonstrating that existing measurement and verification rules are not sufficient to accurately capture end-use customer operations in all cases, PJM said.

PJM cautioned that payments may be made for load reductions that would have occurred regardless of PJM's markets. For example, the existing rules are not suitable for establishing weekday Customer Baseline Loads (CBLs) for highly variable loads because the flat average approach based on the highest five usage days out of a 10-day period has the potential to miss the normal low usage periods for highly variable loads, PJM explained.

In short, loads could be paid for “doing nothing” and simply using a low amount of power as that customer normally would, PJM suggested.

FERC recently accepted changes in ISO New England to curb such “phantom” demand response (Matters, 4/7/08).

PJM’s proposal would:

1) Improve the method for establishing the CBL;

2) Clarify that only demand reductions in response to price are eligible for energy settlements;

3) Establish objective criteria to assist with the identification of inappropriate market activity;

4) Authorize PJM to prohibit participation in the PJM Energy Markets and to refer market participant activity to the PJM Market Monitoring Unit and/or FERC;

5) Establish aggregation rules, including clarification that Economic Load Response Participants may aggregate multiple end-use customer sites;

6) Establish a process to normalize a CBL based on actual usage just prior to an event day; and

7) Establish flexible rules to enhance participation of self-scheduled and dispatchable demand response in the PJM Energy Markets.

NYISO ICAP Penalty Proposal Unreasonable, NRG Says

A New York ISO proposal that would penalize certain mitigated suppliers for any failure to offer their mitigated capacity into the ICAP spot market auction, regardless of cause or intent, is, “excessive, arbitrary, and penal,” NRG Energy argued in a supplemental protest (ER08-695).

The penalty, which NRG claimed was substantially revised from prior NYISO proposals and outside the scope of the ISO’s limited compliance filing (Matters, 4/11/08), would be equal to 1.5 times the spot market clearing price times the MWs not offered plus any other MWs controlled by the supplier.

The penalty, NRG protested, does not distinguish between intentional withholding and inadvertent bidding errors, does not consider the intent of the supplier, and does not relate the size of the penalty to the size of any error. Additionally, the penalty size is not related to the market harm caused by the market participant, or the profit of the wrongdoer, NRG pointed out.

“Bidding capacity involves the use of computer systems and human beings, neither of which is 100% reliable, although computer systems can offer protections against human error. Yet, the NYISO’s April 10th training made clear - while its computer systems will provide information on the amount of UCAP that the NYISO associates with each mitigated suppliers [sic], the systems will provide no fail-safe protection that the required capacity amount has not been offered in the spot auction. Such protections are necessary however, because human beings can make mistakes, particularly when the amount of unforced capacity at NRG's thirty (30) generation units in New York state (twenty-two (22) of which are New York City units) often change (sometimes by fractions of a MW) monthly as a result of changes in unforced outage rates and unit testing," NRG told FERC.

NRG cited an example where ministerial oversight in bidding, causing a de minimis $89 in total harm to the market, would be penalized $13.2 million.

Industrials Push for Continued Inclusion in Conn. Summer Savers Program

Any Connecticut summer savers program should not be limited to residential customers, the Connecticut Industrial Energy Consumers told the DPUC in exceptions to the Department's draft (07-06-21).

While the DPUC does not think the program should be renewed for 2008 (Matters, 4/14/08), it did propose that any subsequent renewal should be limited to residential customers. Industrials think that goes against the intent of the energy efficiency act which created the rebate program.

Since the primary objective of the legislation is to target the rising demand for electricity on the hottest days of the year, prohibiting the largest class of energy consumers (C&Is) from participating would, "strongly undermine," the purpose of the law, industrials argued.

"It is beyond dispute that commercial and industrial customers have the largest combined load and thus, have the greatest potential to conserve energy," industrials added.

The Department's concerns about paying industrials for conservation that would occur outside of the summer savers program would be alleviated by requiring customers to actively enroll in the program, industrials explained.

Limiting customer participation to residential consumers, "is an overly broad and unjustified response to free-ridership concerns," industrials argued.

Briefly:

Md. PSC Holds Off on Allegheny Demand Response

The Maryland PSC agreed with Allegheny Power that a voluntary demand response program for customers would not be cost effective at this time, and will not require the utility to implement a demand response service program for the time being. The Commission had earlier directed Allegheny to study and submit a voluntary demand side management plan similar to an air conditioner load control program used by Baltimore Gas & Electric in Case 9111, but Allegheny found that the program would not even be cost effective if it were mandatory instead of voluntary. The Commission expects that Allegheny will file a demand response proposal should changing circumstances make one cost effective.

CL&P Tweaks Smart Meter Pilot

Per DPUC direction, Connecticut Light and Power has adjusted is smart meter rate pilot plan to include four pricing options instead of three, and to scale back the number of meters (05-10-03RE01). The four rate options will be two Time of Use rates (one with a four-hour peak and another with an eight-hour peak), a Critical Peak Pricing rate, and a Peak Time Rebate plan. CL&P proposed cutting the number of advanced meters from 10,000 to 4,000, with 2,000 going to residential customers and 2,000 going to C&Is. The rates are to be in effect during the summer of 2009, and customers would be able to opt out of the pilot at any time. The revised cost of the pilot fell slightly to $9.4 million to $12 million from the original estimate of $10.1 million to $13.9 million, mostly due to savings from buying fewer meters.

Brown Talks Dynamic Pricing to Open Metering Conference

"[I]t seems difficult to accept the notion of a utility employee manually reading meters in an age when even children can routinely text message to friends and download music and movies to their iPods and iPhones," New York PSC Chair Garry Brown remarked in opening a technical conference on advanced metering. "Fundamentally, the concept of automatically reading a utility meter and remotely monitoring energy usage is something that can no longer be simply cast aside," Brown added. "While traditional AMI functions such as meter reading savings could be viewed as largely utility benefits, time-of-use rates must be implemented that adequately reflect the real value customers place on being able to modify consumption habits and cut back on energy usage," Brown explained. Other benefits such as energy management and appliance monitoring could be supported that would provide real added value for the customer if implemented and priced properly, the chair added. "There is public interest in load shifting and dynamic pricing alternatives," Brown concluded.

Settled Parties Won't Be Part of New Western Crisis Review

FERC clarified that market participants who have settled all claims regarding the Western electricity crisis of 2000-01 are not subject to the Commission's new proceeding to address whether a wholesaler's improper or untimely filing of its quarterly transaction reports masked an accumulation of market power such that the market rates were unjust and unreasonable (Matters, 3/21/08). FERC agreed that those parties who have extinguished all claims from the crisis should be dismissed from the proceeding, since the Commission's general policy is to relieve a respondent to a complaint or investigation from further participation where that respondent has settled its potential liability (EL02-71).

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myriad of requests for exceptions," Hess cautioned.

The Mirant agreement could have a substantial impact on Hess's balancing operations and costs, the retailer told the DPU.

"Moreover, additional costs that may be imposed on Hess and its customers as a result of a benefit that is provided to Mirant, and no other suppliers, would have an adverse impact on the competitive market," Hess cautioned.

Hess filed its motion for late intervention on the final day to submit discovery requests to NSTAR. Hess wants to know how the Mirant pact will impact other customers' balancing rights and whether the utility could claim the extra tolerance would not harm reliability if it were granted to customers in the same trading pool as Mirant.

Hess asked if other customers would be eligible for the same expanded tolerance, and whether the Mirant pact would impact NSTAR's ability to add load in the Cambridge service territory.

Iberdrola-Energy East ... From 1

NYSEG and RG&E transmission and distribution (T&D) utilities and subsidiaries of Iberdrola that own generation units sited in upstate New York, and plan to build more such generation there," staff reminded.

Both utilities continue to own "substantial" amounts of generation in upstate New York, including larger-sized gas-fueled facilities, notwithstanding the Commission's policies favoring divestiture of that generation, staff added.

Staff would require full divestiture of such generation, and the petitioners' exit from the generation business in New York, to ensure ratepayer protection.

"The petitioners' presentation on vertical market power is openly hostile to the Commission's KeySpan/Grid Order and the Commission's vertical market power policies," staff asserted.

Staff attacked the petitioners' claims that the merger will aid wind power development, noting the petitioners have been unable to establish any connection between the NYSEG and RG&E T&D utilities and the development of renewable projects.

Although Iberdrola has argued owning Energy East will give it comfort in investing in New York wind power, staff called that assertion, "illogical," since Iberdrola is pursuing wind power in Pennsylvania, Oregon and Texas despite not owning distribution utilities in those states.

Staff dismantled Iberdrola's argument that its wind power is needed to meet state RPS goals, explaining that the wind project queue in New York is full and the loss of one developer will not impede the state's RPS progress.

In fact, the exercise of vertical market power as a result of the transaction is more likely to hinder achievement of RPS goals than the absence of just one competitor, staff argued. Such vertical market power could actually drive competitors out of the state, harming renewable development, staff cautioned.

Discrimination achieved by T&D maintenance practices is very hard to detect, staff reported. Such subtle management practices which disadvantage competitors lead to detailed factual disputes that can drag on for long periods of time, while the disadvantaged competitor loses money in the interim.

The staff asserted it is time to complete the long process of bringing NYSEG and RG&E into full compliance with the PSC's vertical market power policy statement, and to address the risks to ratepayers that RG&E's proposed repowering of the Russell Station poses.

The Consumer Protection Board, however, questioned the need for the utilities to divest their hydro generation, since it claimed such generation hasn't posed market power risks in previous rate cases. CPB also objects to limiting Iberdrola's potential wind ownership, noting the condition would be a prohibition not placed on affiliates of other utilities.

CPB favors Iberdrola's divestiture of its fossil-fuel generation as the petitioners proposed in a Partial Acceptance Document. Multiple Intervenors would also not preclude Iberdrola from continuing its New York wind investment where vertical market power is mitigated.

Staff suggested that a contract between Community Energy, an Iberdrola subsidiary, and NYSEG and RG&E, "appears to violate existing codes of conduct" at the utilities, specifically prohibition against the provision of sales leads, the promotion of an affiliate and the giving of preferential terms to an affiliate.

Community has an exclusive contract with NYSEG and RG&E authorizing it to market renewable energy attributes to NYSEG and RG&E customers.

"It appears that neither Energy East nor Iberdrola considered the impact of the proposed transaction on the contractual relationship between Community Energy and NYSEG and RG&E," staff chided.

Staff would condition merger approval on a variety of financial and structural protections, including insulation of NYSEG and RG&E from the bankruptcy of affiliates, a code of conduct, and reporting and accounting requirements, including some taken directly from the Commission's KeySpan/Grid order.