Energy Choice Matters
April 24, 2008

Maine to Review Utility Bill Inserts Promoting Competitive Green Power

The Maine PUC initiated an inquiry to implement a law which authorizes utilities to promote green supply products and REC products offered by competitive electricity providers (CEPs) through utility bill inserts.

The law dictates that, "at the option of the provider of the products and with the cooperation of the transmission and distribution utility," the green product information may be disseminated in the utility's distribution bills, so the PUC asked the utilities to report on whether they would "cooperate" with any such plans.

The cost of the inserts, including but not limited to printing and postage costs, are the responsibility of the green power retailer.

The PUC asked whether utility billing systems are currently capable of billing for REC products based on a given quantity of RECs per bill, or the kWhs used per bill, or in blocks of kWhs.

The Commission wants to know whether utility systems are capable of employing a "check-off" sign-up process in which a customer can enroll in or sign-up for green supply or REC products using a form included on the utility bill.

The Commission asked what other issues relating to such enrollment should be considered, and it seems unclear whether the green power solicitations would be for an added green service on top of bundled utility service, or whether the products could be for competitive electric service which requires a switch to a CEP. In the latter case, it's unclear how a check-box enrollment would fit with PUC switching and authorization rules.

CEPs are asked to comment on their level of interest in the insert program and whether they would be interested in utility billing of REC products or a check-box enrollment on utility bills.

The Commission also asked whether additional certification of green products is needed (above RPS criteria) and what that added criteria should be.

Initial comments are due May 16 (docket 2008-178).

NSTAR Defends Higher Imbalance Tolerance for Mirant

A higher gas imbalance tolerance for the Mirant Kendall gas-fired power plant won't adversely impact the system or competitive suppliers, NSTAR told the Massachusetts DPU in opposing late intervention by Hess (Matters, 4/16/08).

NSTAR wants to give Mirant an extra 5% tolerance as part of a settlement that saw Mirant withdraw opposition to an NSTAR FERC filing.

Mirant is served by a separate and distinct meter that NSTAR monitors on a daily basis, and Mirant is responsible for paying any imbalance penalties incurred on the NSTAR system, not its competitive supplier, NSTAR reported (08-GC-01).

Mirant's supplier would not receive any benefit or advantage from the added tolerance because the only impact is to expand the tolerance zone before financial penalties apply to the Mirant facility, NSTAR claimed.

"There is no operational constraint that arises from the Gas Balancing Agreement because it will not change the operation or dispatch of the Mirant facility and it does not remove the obligation to pay for gas taken from the system," NSTAR told the DPU.

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ICC Assails LSE Reserve Requirement in MISO

FERC's acceptance of the Midwest ISO's administratively-determined mandatory reserve margin requirements on LSEs (Matters, 3/27/08) is inconsistent with MISO's long-standing commitment to submit a market-based resource adequacy plan that is, "predicated on the price of Energy reflecting all costs associated with Resource Adequacy requirements," the Illinois Commerce Commission argued in a rehearing request (ER08-394).

Rather than proposing enhancements to its energy and ancillary services market framework to ensure resource adequacy, MISO relies on, "non-transparent bilateral capacity contracts and facilitation of a bilateral capacity exchange," the ICC asserted.

MISO has not related its "command and control" LSE reserve margin requirement to its previous market-based Phase II resource adequacy proposal which was accepted by FERC, and for which the Midwest ISO stated that it "will undertake a long-term integration of shortage pricing with the Energy Market," the ICC pointed out.

The LSE reserve margin requirement shifts all risk for maintaining resource adequacy to market participants serving load, and, by extension, to the customers of those market participants, the ICC explained.

Arguing that scarcity pricing would ensure resource adequacy, the ICC believes the 30-days forward framework of the Midwest ISO's resource adequacy plan will likely do little, if anything, over and above that which will be accomplished by the Ancillary Services Market framework to incent resource entry.

"Because new capacity cannot be created in 30 days or less, the Midwest ISO's proposed Module E plan is primarily a mechanism for redistributing revenues among the holders of existing capacity," the ICC charged.

The ICC also cautioned the MISO proposal could even harm long-term resource adequacy because, "imposing an arbitrary reserve margin requirement on each LSE removes the market-based price signals necessary for efficient long-term entry of capacity, from both the supply and demand side."

The MISO plan would dampen energy and ancillary services market prices, dis-incent certain types of resource entry, and thwart the development of resource diversity that would otherwise occur, the ICC claimed.

"Price responsive demand will be particularly negatively impacted by the Midwest ISO's proposal," the ICC reported.

N.Y. PSC Adopts Cost Rules for Backstop Projects

The New York PSC yesterday adopted a policy statement (07-E-1507) to address cost recovery for any potential backstop projects needed to maintain electric reliability.

A regulatory backstop process, required if the New York ISO's market-based measures don't produce a solution, could needed by 2012-13, the PSC noted.

The PSC divided its review of a backstop mechanism into three phases: (1) cost allocation and recovery, (2) selection of a backstop project among competing proposals, and (3) developing a long-term plan for electric infrastructure that can be used as guidance with regard to all Commission policies. A Phase II order is due in August or September, with a Phase III decision due in the middle of next year.

The overarching goal of the PSC's review is to create a level playing field for all competitors and all potential backstop options.

Also important is establishing a process that will preserve PSC jurisdiction to look at costs incurred in New York and to be charged to New York consumers.

That's why the PSC rejected a plan from transmission owners that would have had backstop project costs recovered in FERC jurisdictional rates. Instead, the PSC policy statement would recover costs through retail tariffs, a position favored by staff, Multiple Intervenors, and the Consumer Protection Board.

The policy statement takes a beneficiaries-pay approach to cost allocation. Additionally, the policy statement rejected transmission owners' proposed cost allocation because it would allocate too many costs upstate.

But PSC Chair Garry Brown stressed while the Commission was forced to adopt a cost sharing mechanism now to allow the New York ISO to meet a June FERC deadline, the PSC is open to revisiting cost allocation if parties can work out a better solution.

Commissioner Cheryl Buley noted that regulatory intervention can have a chilling effect on the market, and the policy statement gives market participants clarity and ample opportunity to provide market solutions to infrastructure needs.

More Jousting in N.Y. EEPS Docket

The New York PSC staff, "seems to be paying lip service," to the Commission's pronouncements that utilities are to have a substantial role in obtaining energy efficiency goals, Consolidated Edison and Orange & Rockland argued in a reply brief in the energy efficiency portfolio standard case (07-M-0548).

The ConEd utilities also complained that, "NYSERDA seeks to deliver all energy efficiency programs for the foreseeable future." Countering NYSERDA's assertion that incentives paid to utilities for energy efficiency could play a deleterious role (Matters, 4/15/08), the ConEd utilities argued that, "a government agency with pre-determined goals will be subject to the same kind of pressure to produce short-term success," which may harm long-term success.

Central Hudson Gas & Electric pointed to statements against interest made by NYSERDA in the case that show it would likely only achieve 20% of staff's fast-track targets for 2008 (now likely 10% since nearly half the year has gone by) and only 40% of targets for 2009. Those admissions belie the staff's argument that NYSERDA is the fastest way to achieve fast-track savings, Central Hudson claimed.

NYSERDA, however, responded that the lags reflect the amount of time it takes to complete construction projects that any program administrator would face.

The "defiant tone" of ConEd's and Central Hudson's initial briefs, "reveals a disturbing lack of appreciation for or understanding of the complexity attendant to energy efficiency program implementation in the current market," the staff charged, noting the utilities lack experience from administering large energy efficiency programs over the last decade. ConEd, however, reminded the staff of its successful programs in the early 1990s before efficiency was taken away from the utilities to protect the nascent competitive market.

The Consumer Protection Board added that the ConEd utilities either misunderstand staff's view on utility participation or, "are simply not satisfied with the fact they would not have a guaranteed role carved out at the beginning of the process." CPB noted the initial staff programs include a significant role (totaling $54 million across two programs in 2009) for utilities with more responsibility in the long-term. Gradually increasing utilities' role is appropriate, CPB agreed, because utilities may not be ready for a substantial role immediately.

Multiple Intervenors slammed staff's proposal that utilities should be entitled to earn rewards of up to 12% of program budgets for administering energy efficiency programs.

The 15x15 efficiency goal is simply state policy, MI noted, and utilities should not be rewarded for just complying with state policy, especially when customers are already paying to achieve the efficiency goals.

The rewards proposed by the staff could be very expensive, costing $36 million in 2009, MI reported. The cost of utility incentives could cause some efficiency programs only marginally cost-effective to become uneconomic, MI suggested.

MI opposed staff's plan which would allow utilities to receive rewards even where they miss savings goals by up to 15%. MI noted that utilities wouldn't be penalized until they miss savings goals by 40% or more.

PJM Seeks FERC Guidance on Queue Cost Changes Prompted by Generation Retirements

PJM asked FERC for a declaratory order to eliminate the uncertainty regarding PJM's interconnection queue process and the treatment of retirement announcements that precede an interconnection customer's queue date, and subsequent withdrawals of such announcements (EL08-55).

Although in a previous decision involving the Neptune project FERC determined that projects cannot be held responsible for costs that occur after their queue positions (such as costs created by unforeseen retirements), FERC left open the question of projects' responsibility for costs that could be known, such as costs arising from announced retirements and any changes to those announced plans.

Certainty in cost allocation determinations is critical to ensuring that generation and merchant transmission is successfully added to the grid, PJM stressed, and it has encountered both situations for which it wants guidance.

RPM, in, particular, has caused previously announced deactivations to be reversed, PJM noted.

While there are other broader issues that PJM stakeholders are currently addressing in order to improve the queue process, the issues addressed by PJM in the declaratory order petition are, "purely ones of tariff interpretation and Commission policy regarding cost allocations for interconnections," PJM noted.

Briefly:

Maine PUC Weighing Small Renewables Interconnections

The Maine PUC opened an investigation (docket 2008-186) into statewide standards for the interconnection of small renewable energy facilities (5 MW or less). Lawmakers required the PUC to conduct the review and issue a report by January 15, 2009. Initial comments are due May 30.

Delaware PSC OKs New RPS Codes

The Delaware PSC adopted new RPS rules for all retail electricity suppliers (excluding munis and cooperatives) which raises the RPS targets to reflect new legislative mandates and the creation of a new solar RPS requirement (docket Reg. 56). The total RPS is to reach 20% by 2019, versus the original 10% target. The new codes also create a requirement for sales from solar photovoltaic energy resources, with the solar mandate reaching 2.005% of sales in 2019. Retailers will get 300% RPS credit for electricity from customer-sited solar photovoltaic power physically located in Delaware and renewable fuel that is used in a fuel cell. Retailers will get 150% credit for Delaware wind.

N.Y. PSC Aims to Encourage More Local Demand Response at ConEd

The New York PSC accepted proposed changes to Consolidated Edison's demand response (Rider U) tariff amendments to increase customer participation in the local Distribution Load Relief Program (DLRP). The changes include greater compensation (now $6.00 per kW-month versus last year's $4.50 per kW-month) for customers on higher priority networks and expanding the notice period from 30 minutes to two hours (08-E-0176 et. al.).

Usource Revenues Up Slightly

Unitil's broker/consultant Usource reported revenues of $1 million for first quarter of 2008, slightly higher than the $0.9 million reported in the year-ago quarter. For the quarter, Unitil announced net income of $3.3 million, a $0.7 million rise.

Ohio Senate OKs House Electric Bill

The Ohio Senate passed the House's version of the electricity market bill (Matters, 4/23/08) unanimously. Gov. Ted Strickland is expected to sign the legislation which sets an easier path to market-based rates for utilities not owning generation (FirstEnergy).

Morgan Stanley Complains of SCE Confidential Treatment

Morgan Stanley Capital Group filed a formal complaint against Southern California Edison at the California PUC (C0804030), arguing that SCE is ignoring PUC rules for extending confidential treatment to materials submitted by bidders in SCE's Long Beach Energy Auction.

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"There is nothing about the Agreement that affects the balancing operation and costs of any supplier or customer other than Mirant," asserted NSTAR.

Hess hasn't explained how the added imbalance tolerance would create greater potential for Operational Flow Orders (OFOs), NSTAR added.

"In fact, this is not an impact that has the possibility of resulting from the Department's approval of the Gas Balancing Agreement," NSTAR claimed, because Mirant would still be using the gas system the same way; only its penalties would change.

"In that regard, there is no cost that would result for other suppliers on the NSTAR Gas system as a result of the Department's approval of the proposed Gas Balancing Agreement," NSTAR argued.

Approving the pact between NSTAR and Mirant has no application or bearing on the activities of any other entity operating on the utility's system, NSTAR stressed.

NSTAR opposed late intervention because Hess did not show a material interest in the case, and did not justify late intervention.