

Energy Choice Matters

April 29, 2008

FERC OKs New NYISO TCC Credit Policy

FERC accepted revisions to the New York ISO's credit requirements for bidding on and holding Transmission Congestion Contracts since the new rules will better protect the NYISO's stakeholders from credit risk while not unduly impairing trading in NYISO's TCC market (ER08-778).

In doing so, FERC rejected arguments from Epic Merchant Energy that requiring current TCC holders to post additional credit as contemplated by the changes amounts to retroactive ratemaking.

FERC explained that since the ISO's requirements are not meant to compensate for prior losses, the prospective treatment that requires TCC holders to post additional collateral is not retroactive ratemaking.

The ISO noted that the current credit rules have required payments which have differed significantly from the TCC auction prices, with a few historical instances in which the differences were in excess of \$20,000/MW up to almost \$50,000/MW.

The new credit margin is designed to result in a 3% probability that the payments due to NYISO over the term of a monthly or six-month TCC will exceed the credit requirement for the individual TCC and a 5% probability in the case of one-year TCCs.

In other words, NYISO's proposed revisions should more closely align the collateral requirements for TCC holders with their actual payment obligations to NYISO, FERC noted.

ISO-NE Cautions Against Re-Litigating Forward Capacity Market

ISO New England objected to a myriad of comments on its Forward Capacity Auction results filing as outside the scope of its limited report, and as a collateral attack on prior FERC orders (ER08-633).

"The ISO is concerned that the Objecting Parties are attempting to use this forum as a means to challenge the design and implementation of the FCM market [sic] in circumvention of the New England stakeholder process or Commission orders that have approved the elements of the FCM market [sic] design," the ISO argued, urging FERC to prevent the filing from becoming a, "referendum on the FCM."

Most of the objections were from generators or other wholesale sellers, who commented on (1) the calculation of the Cost of New Entry; (2) the Installed Capacity Requirement; (3) the qualification and participation of demand resources; (4) treatment of de-list bids rejected for reliability; (5) new resources bidding into the FCA as existing resources; (6) requests or comments for technical conferences on certain matters; and (7) additional enhancements to improve the FCM.

Permitting review of all those issues would impermissibly exceed the scope of a Section 205 proceeding, the ISO observed, and would amount to an improper collateral attack on prior Commission orders.

The ISO stressed that it was not minimizing the importance of certain issues raised by market participants, but noted the issues would be properly raised in the stakeholder process or other Commission proceedings.

ALJ Sets Discovery for Tara-GHRA Dispute

Agreeing that the scope of discovery is broad, an ALJ rejected most of the objections from Tara Energy and the Greater Houston Retailers' Association over each other's discovery requests in GHRA's complaint against Tara over fixed rate contracts (33967).

Tara is to provide any and all presentations, proposals, and communications that were either presented by Tara to GHRA or GHRA complainants between January 2002 and December 2004, including drafts of all such documents, and documents that discuss the rate structure for Tara contracts and whether rates would be variable or fixed.

Tara is also to submit copies of ads that discussed fixed or variable pricing that appeared in the Houston market during the complaint timeframe.

Tara is to list all categories of charges that have been charged to GHRA Complainants pursuant to the 2002 Agreement and/or the 2004 Agreement that were included in the billing category "Systems Charges including Bypassables." Tara is to provide documents generated as of August 1, 2005, including internal correspondence, memoranda, notes, or other communications, describing or otherwise related to how systems charges and/or generation services charges and/or commodity charges should be calculated, as well as such documents related to the meaning of the term "market conditions" and how the effect of market conditions should be calculated.

GHRA is to produce all agreements for electricity services, other than the Tara agreements, that the complainants have entered into after the 2004 Agreement with Tara. The ALJ found that the post-Tara contracts may shed light on the intent of the customers when they entered into the contracts at issue.

GHRA is to produce all analyses prepared by Public Utility Brokers for any complainant relating in any manner to electricity, fuel, pricing, or Tara's contracts, invoices, or billings to the Complainants related to the 2002

Agreement or the 2004 Agreement, and/or other REPs.

Carving Out Sub-SEMA Regions Not Fit for FERC Action, Stakeholders Say

A FERC complaint docket (EL-08-48) is not the proper forum to determine whether the SEMA reliability region should be further subdivided to alleviate out-of-merit generation costs paid by customers in the upper part of SEMA, stakeholders told FERC.

A group of Massachusetts municipals (Massachusetts Public Systems) have complained to FERC, arguing that ISO New England has overcharged them approximately \$24 million in 2006 and 2007 by characterizing the costs for dispatching the Canal Generating Station as Local Second Contingency Protection Resource (LSCPR) charges. The total uplift charges from the oil-fired Canal units are in excess of \$100 million per year.

Consolidated Edison Solutions, however, argued that FERC should not grant retroactive refunds to the munis, since a settlement involving Canal uplift payments allowed the munis to file a complaint starting January 2, 2008, but the munis waited some three months before filing. The Commission should limit any remedies to prospective solutions in light of the disruption retroactive relief imposes on other market participants, ConEdison Solutions argued.

FERC should not reallocate prospective uplift charges on a more granular basis to a sub-set of the SEMA load, ConEdison Solutions added.

Doing so would be inconsistent with the ISO New England Tariff, which allows out-of-merit costs to be charged to the Transmission Owner (for those constraints not monitored by ISO-NE), charged to all load on a system-wide basis, or charged on a zonal basis. Artificially redefining the SEMA zone would be inappropriate since it would concentrate the uplift charges onto a subset of the customers in the SEMA zone in order to reduce the costs to the munis, ConEdison Solutions noted.

The Massachusetts DPU agreed, absent a more thorough review of the proper

boundaries for reliability zones. Redrawing the SEMA zone, “should not take place in a piecemeal fashion as is essentially being proposed by the Complainants,” the DPU cautioned.

The munis insist that the ISO can meet reliability criteria without dispatching the Canal units out-of-merit by using post first contingency switching (PFCS) or special protection systems, both of which would be less expensive.

But the DPU thinks those alternatives do not provide the same level of protection against potential load shedding, and puts human health and safety across a significant portion of the state’s population at greater risk.

Iberdrola QFs Would Escape PSC Regulation, Staff Cautions

Some of the wind projects Iberdrola has proposed to develop in New York, including some in the NYSEG and Rochester Gas & Electric territories, are under 80 MW and thus qualify as qualifying facilities under the state’s Public Service Law, the PSC staff explained in a reply brief in the Iberdrola-Energy East merger case (07-M-0906).

The QFs would thus be exempt from Public Service Law regulation, the staff cautioned, responding to parties who favor divestiture of Energy East fossil-fuel generation but do not support, as staff has argued, forcing Iberdrola to divest itself of all generation, including wind, due to vertical market power concerns.

Some parties have argued the PSC could review Iberdrola wind projects on an individual basis to prevent the exercise of market power.

But with the QFs exempt from Public Service Law regulation, staff could not conduct a project-by-project review of compliance with vertical market power protections, even though some QFs would be in NYSEG and RG&E territories, staff explained.

The only way the PSC could extend oversight over those QFs would be through an agreement with Iberdrola as part of merger approval, but staff noted Iberdrola is not willing to accept such extended oversight.

Thus, full divestiture of generation is

needed, since procedural safeguards would be inadequate to review all Iberdrola generation, staff insisted.

Maryland OPC Objects to Accelerated Cost Recovery for BGE Demand Response

The Maryland Office of People’s Counsel attacked a proposal from Baltimore Gas and Electric to accelerate cost recovery for planned demand response program costs by one year and to revise incentive payments.

As originally approved by the PSC, BGE could not begin cost recovery before 2011 and could only collect payments where BGE confirms that benefits offset the planned surcharge. BGE could not receive incentives prior to the time customers (whether participating in the program or not) receive benefits from demand response sufficient to offset the cost recovery surcharge.

“A mere three months later, and before any demand response has occurred at all, the Company is seeking a significant revamping of the cost recovery method and its incentives based, in part, on the ‘fact’ that the Base Residual Auction (BRA) results at PJM did not meet the Company’s expectations,” OPC objected.

BGE, however, argued that allowing cost recovery a year earlier will lower deferral costs paid by customers, while also giving the utility greater certainty.

The incentive is currently structured to be a percentage of wholesale revenue and capacity price mitigation based on the Southwest MAAC Variable Resource Requirement curve. But the January 2008 BRA did not clear the Southwest MAAC VRR curve, nor will the May auction likely do so, thus making the Southwest MAAC VRR curve capacity price mitigation component of the incentive unworkable, BGE explained. BGE suggested simplifying the incentive structure by removing the capacity price mitigation component.

OPC thinks that any changes should be reviewed through an evidentiary proceeding where OPC could conduct discovery, file expert testimony and brief on the issues to protect residential consumers.

“For too long, discussion of DR and energy efficiency cost recovery has been conducted in too piecemeal a fashion to give OPC comfort that the residential customers will be paying just and reasonable rates for the investments,” OPC argued.

OPC cautioned that changing BGE’s incentive structure will open the door for other utilities to alter their structures as well.

“For programs in their infancy, OPC believes that this would just invite confusion and delay in getting demand response programs to Maryland customers. Given the available evidence, these programs are needed to ensure system reliability. Confusion and delay are not in the best interests of Maryland customers,” OPC observed.

Briefly:

Pepco Files Latest GPC Riders for Md.

Pepco submitted to the Maryland PSC the proposed GPC rider for the 2008/2009 year, which is to reconcile actual SOS power procurement costs and revenues collected from customers. In addition to the procurement reconciliation, the previous credit given to customers over-disbursed funds to residential and commercial customers, and the proposed GPC trues-up those over-disbursements. The proposed Generation Procurement Charges for June 1, 2008 through May 31, 2009 are as follows:

Schedules R, RTM	\$.0000384/kwh
Schedules GS, T, MGT LV II, MGT LV III, MGT 3A II, MGT 3A III, GTLV, GT3A, GT3B, TM-RT	\$.0001843/kwh
Schedules OL, SL, EV, TN	\$0/kwh

BGE Gets Go Ahead for Peak Pricing Pilot

The Maryland PSC approved Baltimore Gas and Electric’s Smart Energy Pricing Pilot, as proposed, in a letter order. The 1,000 customer pilot includes a peak pricing pilot with three rates based on time period (critical peak hours, peak hours and off peak hours) as well as a peak time rebate that pays

customers a rebate for reducing usage during critical peak hours (Matters, 4/1/08).

N.Y. Long-Term Planning Meeting Pushed to June

The New York PSC postponed a May 22 plenary meeting on the Commission’s proceeding establish a long-range electric resource plan and infrastructure planning process (07-E-1507) until June 24, citing conflict with New York ISO meetings and the flow of the case which no longer requires a plenary session in May.

California ISO Sees Adequate Supplies for Summer

The California ISO, “is counting on the continued success and further refinement of the Resource Adequacy program,” to keep the lights on in coming summers, it reported in its 2008 summer assessment. Although supply for the summer 2008 is adequate to handle a broad range of operating conditions, system operations will be challenging at the extremes, the ISO noted. Conservation and demand response programs will continue to be important this summer and have an increasingly important role in years to come. The ISO projects 489 MW of new generation coming on-line by the summer of 2008, with a total of 1,800 MW expected to come on-line by the end of calendar year 2008 and a total of 2,800 MW expected by summer 2009 (since the end of summer 2007). A “significant” portion of that total is intermittent, the ISO observed, noting the transition to a greener grid, “requires both careful management and greater public understanding of the benefits and challenges ahead.”