

# Energy Choice Matters

June 6, 2008

## ERCOT Votes Today on Congestion Fix

At the request of the PUCT, ERCOT's board is holding an emergency meeting today to vote on an urgent Protocol Revision Request designed to deal with the market's recent congestion and price volatility, blamed for the default of four REPs, by increasing the use of local congestion.

PRR 764 (Zonal Congestion and Commercially Significant Constraint (CSC) or Closely Related Elements (CRE)) was developed by Independent Market Monitor Dan Jones and would change the definition of zonal congestion, in effect allowing ERCOT to resolve a particular type of transmission congestion with local-congestion management techniques, rather than the zonal-congestion management used currently. Under local-congestion management, ERCOT is able to deploy out-of-merit generation.

The PRR provides that zonal constraints are only those constraints for which a CSC or CRE is the base case or post-contingency limiting element.

Recent experience has revealed that the attempt to use zonal Balancing Energy to manage zonal constraints for which the post-contingency limiting element is neither a CSC nor a CRE has been very ineffective and inefficient, Jones said.

Though a few market participants have expressed concerns about unintended consequences, the PRR has sailed through the PRS and TAC. Luminant responded to concerns by explaining that no drastic changes would be made to the zonal model, and that PRR 764 instead gives the market better opportunity for control.

ERCOT staff, while not opposed to PRR 764, noted that the PRR may lead to the sale of more Transmission Congestion Rights and require more simultaneous activation of local constraints. When large numbers of local constraints are activated, it is possible to bind the ERCOT generation system to the point that load following is problematic, staff added.

The Protocols requiring changes would be: 7.3.2, Resolution of Zonal Congestion; and 7.5.2, Procedure for Computation of Transmission Congestion Rights Quantities.

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## Stand Energy Opposes Ohio License for U.S. Gas & Electric

A PUCO attorney examiner suspended consideration of U.S. Gas & Electric's application for a gas marketer's license (Matters, 5/20/08) after competitor Stand Energy alleged U.S. Gas & Electric has engaged in slamming.

The suspension stops the 30-day deadline by which applications are automatically approved, and gives U.S. Gas & Electric a chance to respond to the allegation, the examiner noted (08-0601-GA-CRS).

Stand Energy, which competes against U.S. Gas & Electric in the NYSEG gas market, alleged that U.S. Gas & Electric switched two Stand Energy industrial customers to USG&E service without customer consent.

Stand reported to PUCO that, "Stand Energy Corporation is in the process of obtaining evidence of recent 'slamming' behavior by USG&E in New York within the last six (6) months that is a clear violation of the Uniform Business Practices (UBP) governing Energy Service Companies (ESCO's) in New York."

Although the two customers were put back into Stand Energy's book after having been removed, "the situation simply should never have occurred," Stand blasted.

"The behavior of this applicant in New York, if repeated in Ohio, could significantly harm individually

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# *Surges and Circuits*

## **Short Circuits**



**ERCOT Balancing Market:** As Chairman Smitherman described it, the Commission is in "triage" mode to address record, volatile prices and unprecedented congestion.

## **Riverway Bankruptcy Prevents Mass Transition for Time Being**

Houston-based Riverway Power (REP certificate Sure Electric) temporarily avoided dropping customers to POLRs by filing for bankruptcy protection. ERCOT had been preparing a POLR drop but the bankruptcy filing halted the process, at least for now.

Riverway also petitioned the court for authorization to break some money-losing retail contracts. Riverway told the court that some 5,000 of its 6,500 contracts aren't profitable.

Riverway listed \$1.9 million in assets and \$1.7 million in liabilities.

In May, Riverway had its prices pulled from Power to Choose due to its unresponsiveness to PUCT inquiries regarding customer complaints.

House Committee on Regulated Industries Chair Rep. Phil King has called a special meeting of the committee on June 23 to investigate the recent market turmoil, including wholesale price spikes and congestion.

## **Smart Meters Won't Replace Need for EILS, Demand Response Providers Say**

A coalition of demand response providers objected to CenterPoint Energy's assertion in its advanced meter deployment plan (35639) that demand response prompted by smart meters, "could offset the need for ERCOT to procure Emergency Interruptible Load Service."

It's a claim we made sure to note in our original story on the plan after culling through CenterPoint's voluminous filing (Matters, 5/6/08).

The Demand Response Coalition (DRC), which includes EnerNOC, Comverge/Enervise, ConsumerPowerline and Site Controls argued that CenterPoint gave "no basis" for its statement regarding EILS' elimination, "which could be interpreted as a collateral attack," on prior PUCT decisions.

The demand response providers added that CenterPoint's witness, "shares with numerous individuals some confusion over the nature of demand response which will be enabled by the implementation of advanced metering services."

Price responsive demand which may be enabled or encouraged by the data provided by advanced meters is not available to ERCOT operators, and is unlikely to respond in time to replace EILS, DRC explained.

Under the new market design, real-time zonal prices will not be available to customers until at least ten minutes into each fifteen minute interval, due to the requirement to aggregate the nodal prices across the zone, DRC pointed out.

Past history, DRC contended, demonstrates there is little or no correlation between extreme price spikes and emergency events in ERCOT, and it is likely that customers will fail to respond until after an emergency event has occurred. High prices tend to be driven by either ramp constraints or excessive demand relative to supply, while emergency events are usually the product of unexpected contingencies, such as generation or transmission infrastructure failures, DRC noted.

"Therefore, while advanced meters may enable load management activities that reduce peak demand in ERCOT, which has substantial economic value, this sort of 'passive' demand response is unlikely to provide assistance to ERCOT operators dealing with emergency events," the coalition concluded.

## **AReM Argues SCE Can't Have It Both Ways on Peaker Costs**

The California PUC cannot allow Southern California Edison to "pick and choose" which provisions of an order concerning cost allocation of utility owned generation that SCE will follow, the Alliance for Retail Energy Markets argued (A. 07-12-029).

In dispute are the costs for several peakers SCE built to meet summer reliability needs as directed by a 2006 PUC order. SCE wants to spread the costs over all distribution customers, not just bundled customers who take commodity supply from SCE.

But if SCE pursues such cost recovery, it must conduct an auction for the energy output of the peakers, under an obligation set forth in

D.06-07-029, AReM pointed out. SCE has claimed that there is little energy value associated with the peakers, and that developing the auction documents could be contentious.

But AReM countered that the only way to avoid an auction is to allocate the peaking plants' costs solely to bundled customers.

AReM thinks the costs should only be borne by bundled customers because the load growth prompting the need for the peakers is from SCE's bundled customers, and not from direct access customers.

While SCE noted the peakers have provided reliability benefits to the entire transmission system, the same can be said of any resource adequacy agreement an electric service provider signs with a generator that does not supply power to SCE or another IOU, AReM counted. But costs of such ESP contracts are not allocated to all customers, bundled and direct access alike, AReM observed. Instead, they are properly assumed by the ESP's direct access customers, just as SCE's bundled customers should pay for its peakers.

## **Former Michigan Commissioners Oppose Anti-Competition Bill**

Seven former Michigan Public Service Commissioners warned that parts of legislation before the state Senate (HB 5524) would create unnecessarily high rates without promoting electric development (Matters, 4/18/08).

HB 5524, favored by incumbent utilities, would limit shopping to 10% of load while "significantly" raising residential rates, the commissioners noted.

File and use rates would also be permitted, allowing utilities to raise rates before a final order is used, they cautioned.

The legislation would provide Consumers Energy a \$60 million rate hike previously denied by the PSC, and would limit the PSC's ability to curb cost overruns. The bill would also compromise the PSC's independence by making the chair report directly to the governor, the commissioners observed.

Democratic Commissioner Ron Russell noted the bills would re-monopolize the industry while lessening Commission control. Russell is, "particularly concerned about killing choice at a

time when our two major utilities are seeking massive rate hikes that will have a devastating impact on seniors and low-income families."

The other signatories included Dave Svanda, Robert Nelson, Laura Chappelle, Eric Schneidewind, Bill Long, and John O'Donnell.

## **Legislation Made Entergy Texas CCN Transfer Automatic**

Entergy did not have to seek a PUCT order to transfer the CCN from Entergy Gulf States, Inc (EGSI) to Entergy Texas when the legislature authorized jurisdictional separation of EGSI, the PUCT ruled yesterday (Matters, 5/9/08).

Texas Industrial Energy Consumers had argued that Entergy did need to apply to transfer the CCN (35519).

But Commissioner Julie Parsley noted that the relevant law, PURA § 39.452(e), contemplated "complete" jurisdictional separation of EGSI into distinct Texas and Louisiana utilities, and Parsley did not think any transfer could be "complete" unless Entergy Texas was granted a CCN. Thus, lawmakers intended for the CCN transfer to be included in PURA § 39.452(e), and Entergy did not have to seek Commission authorization.

Commissioner Paul Hudson, while voting that Entergy did not need to seek a CCN, questioned whether lawmakers would have wanted the Commission to exert oversight had Entergy crafted a separation plan which was massively inequitable to Texas customers. Hudson noted that if legislators had wanted the CCN to be automatically transferred they could have expressly provided for that action in the law.

## **Market-Wide Solution Not Appropriate for Calif. EQR Review, Wholesalers Say**

A market-wide remedy to prices prior to the mitigation period of the California energy crisis is inappropriate, a coalition of competitive wholesale suppliers told FERC, because any violations which may be found as FERC reviews sellers' electronic quarterly reports will accordingly be of individual seller tariffs, not market-wide tariffs (EL02-71).

The competitive suppliers group included, among others, Powerex, PPL EnergyPlus,

Sempra Energy Trading, and Shell Energy North America. The wholesalers were responding to a rehearing request from California Parties arguing that FERC must not rule out market-wide remedies, such as relief using the mitigated market clearing price methodology.

The case had been remanded to FERC from the Ninth Circuit (Matters, 3/21/08), and FERC is investigating whether untimely filing of quarterly transaction reports masked an accumulation of market power for specific firms such that market rates were unjust and unreasonable.

The Federal Power Act requires the Commission to engage in a seller-by-seller review and prohibits FERC from imposing a remedy on all sellers without regard for individual culpability, competitive suppliers argued.

As the Commission has correctly recognized, suppliers noted, the case is about sellers' quarterly reports. Each seller has its own set of facts regarding the content, circumstances, and timing of its reports, underlying transactions, its share of the CAISO and CalPX organized markets, and the terms and conditions of its market based rate authorization, suppliers explained.

Although the California Parties point to Commission precedent for market-wide relief, competitive suppliers argued that the cases cited relate to violations by an ISO of its own tariff, and do not address the actions of particular sellers.

The importance of the quarterly reports has been overstated by the California Parties, competitive suppliers added.

The California Parties had full access to accurate and timely data from other sources regarding disruptions and price spikes in the CAISO and CalPX markets, including CAISO and CalPX price data, CAISO and CalPX market monitoring reports, and other published data and reports sellers made to the Western Systems Power Pool.

In fact, the California Parties relied on that data to support their original complaint in docket EL00-95, which was filed on August 2, 2000 - two days after the deadline for filing the first MBR quarterly reports that would have contained transaction data from the quarter in which the energy crisis began.

Thus, if the California Parties were indeed

reliant on quarterly reports, as they allege, their complaint could not have been filed any sooner, competitive suppliers argued.

Accordingly, completeness of the quarterly reports would not have resulted in an earlier refund effective date, the suppliers reasoned.

## ***Briefly:***

### **Shell Applies for Md. Electric, Gas License**

Shell Energy North America filed applications with the Maryland PSC to become both a competitive electricity and gas supplier.

### **Hudson Leaving PUCT Aug. 15**

PUCT Commissioner Paul Hudson announced that he will be leaving the Commission effective Aug. 15. Hudson has been with the Commission since 2003 and served as Chairman for nearly four years.

### **PUCT Staff to Ensure Distribution Projects Don't Masquerade as Transmission**

PUCT staff are to examine transmission applications more diligently in the future regarding whether projects are truly transmission solutions or rather distribution projects whose costs should not be uplifted to the market. The commitment comes out of the PUCT's approval of a CCN for Brazos Electric Power Cooperative's 138-kV line in Collin County (34276). Commissioner Julie Parsley had expressed concerns that line was a solution to a distribution problem whose costs should not be borne by all market participants (Matters, 5/23/08). Parsley voted to approve the line after staff indicated they currently have a question in their standard preliminary order regarding transmission projects concerning whether the project is appropriately considered transmission rather than distribution, and would work to fine tune that question.

### **Smitherman Calls Suez LaaR Settlement Inadequate**

The PUCT rejected a proposed settlement between staff and Suez Energy Marketing NA regarding Load Acting as a Resource violations, as Chairman Barry Smitherman labeled the penalties unacceptable (Matters, 5/7/08). Under the pact Suez would have paid \$73,375 in administrative penalties to resolve two instances

in 2006 and 2007 where Suez, as a QSE for LaaRs, failed to deploy 95% of its scheduled LaaRs within 10 minutes of ERCOT instruction (35650). Smitherman noted that, at the time of the violations, LaaRs were the last step before rolling blackouts, making the violations serious (EILS has since been added after LaaRs). Smitherman expects LaaRs to be there when called upon and noted that Suez is a "repeat offender," with four total violations. Staff was instructed raise the penalty.

#### **Pa. PUC OKs More Price Cap Education Plans**

The Pennsylvania PUC tentatively approved consumer education plans regarding the end of price caps for the FirstEnergy Companies (Metropolitan Edison, Pennsylvania Electric, and Pennsylvania Power), Duquesne Light and UGI Utilities. The PUC modified UGI's plan so that UGI will not seek recovery of education costs associated with the company's existing default service supply options or green supply options through the rider established to recover costs associated with the plans tentatively approved yesterday. Duquesne Light was ordered to make further tweaks to its plan as well.

#### **Calif. Direct Access Workshop Delayed**

A workshop on Phase II (a)(1) of California's proceeding to examine lifting the direct access suspension scheduled for June 25-26 has been moved to July 1-2 (R. 07-05-025).

#### **PSE&G-PPL Announce RTEP Line**

PSE&G and PPL are partnering on a \$1 billion, 500-kV transmission line to avoid overloads on existing PJM facilities as early as 2013. The 130-mile line, from PSE&G's switching facility in Roseland, New Jersey to PPL's Susquehanna switching station near Berwick, Pennsylvania, was included in PJM's Regional Transmission Expansion Plan last year.

#### **PRR 764 ... from 1**

ERCOT System Operations can implement the new procedures for congestion management within two business days of board approval, with a proposed effective date of June 11.

While not a panacea, PUCT Commissioner Paul Hudson noted during the Commission's open meeting that the PRR would be a first step

to respond to spiked prices.

Chairman Barry Smitherman reiterated his desire for stakeholders to figure out the spikes. While natural gas prices are high and the weather has been hotter, there's still plenty of generation, Smitherman noted, so prices presumably shouldn't be hitting the offer caps.

He suggested that it may be time to rethink the timing of scheduled outages for plants and transmission lines, noting perhaps May is too late.

Commissioner Julie Parsley questioned whether the market needs greater transparency regarding scheduled maintenance outages. While she knows asset owners raise competitive concerns regarding such disclosure, if greater transparency would alleviate high prices caused by REPs scheduling power on an out-of-service line, such action would make sense. Parsley suggested opening a discussion to determine if there is a way to make the market aware of impediments such as outages without compromising competitive information.

#### **USG&E Ohio ... from 1**

affected customers as well as the competitive market for natural gas in Ohio," Stand alleged.

Stand opposed granting U.S. Gas & Electric a marketer's license because certification in Ohio, "is a privilege, not a right, which ... has been abused by this organization in other jurisdictions," Stand alleged.

"There is no legitimate reason to give this company the opportunity to slam customers in Ohio and disrupt a functioning, competitive market," Stand claimed.

Stand also pointed to U.S. Gas & Electric's disclosure in its application regarding what Stand termed "serious violations" of securities laws through the sale of unregistered securities relating to a natural gas drilling program in Pennsylvania. Though U.S. Gas & Electric reported to PUCO it terminated several employees over the securities, including its CEO, Stand questioned what culpability ownership had in the matter.