Energy Choice Matters

June 23, 2008

Texas Governor's Council Cautions Against Re-Regulation

Texas should resist efforts to re-regulate the electricity market and instead identify and remove regulatory, legal, informational, and economic barriers that thwart efficient market responses to the energy needs of the state, says a draft state energy plan released by the Governor's Competitiveness Council.

While many states are addressing rising prices by adopting centralized resource planning mechanisms and governmental dictates for specific generation technologies, such attempts, "inhibit market-based solutions and competitive pressures that are more likely to provide long-term efficiencies and innovation," the draft concludes.

The draft notes that proposals to re-regulate the industry are introduced every legislative session, which merely cause legal and regulatory uncertainty, making it more difficult for REPs to gain access to capital markets and, ultimately, to deploy the new technologies and products that could enable electricity customers to save money.

The energy plan squarely places the blame for high retail power prices on record natural gas prices and gas-fired generation's position on the margin. "Unquestionably, had natural gas prices remained low, retail electricity prices in Texas would be among the lowest in the nation," the draft asserts. The report notes that as late as April of this year, the average of all competitive offers in the each service area, including higher priced renewable energy and longer-term fixed rate options, was "comparable" to the last rates charged under regulation in 2001, even though natural gas prices have increased almost 300% since 2001.

... Continued Page 4

CL&P Billing Error Actions Imprudent, Retailers Must Offer 12-Month Payment Plans, Draft Finds

Connecticut Light and Power and competitive suppliers would have to offer customers impacted by CL&P's billing problem earlier this year at least 12 months to pay any backbilled amounts, with no single payment exceeding 50% of the average of the customer's bills for the previous 12 months, under a draft decision by the DPUC (08-02-06).

An error relating to updating CL&P's Time-of-Use system caused bills to not be rendered for nearly 2,400 customers earlier this year (Matters, 4/21/08).

The draft finds that certain CL&P actions were unreasonable and imprudent, and that six competitive suppliers -- Consolidated Edison Solutions, Glacial Energy, Hess, Sempra Energy Solutions, Strategic Energy and Suez Energy Resources NA -- violated Conn. Gen. Stat. § 16-259a(d) by not offering affected customers who were re-billed a payment plan, or by offering a plan inconsistent with the statute's provisions.

"All electric suppliers are hereby put on notice that the Department expects all electric suppliers to fully comply with Conn. Gen. Stat. § 16-259a and all applicable statutes and regulations regarding customer service. Failure by an electric supplier to adhere to the applicable statutes and regulations will cause the Department to use any means at its disposal to correct the problem, including fines and or the revocation of an electric supplier's license," the draft states.

There is no time limit on when CL&P and suppliers can recover backbilled costs, the draft concludes.

Attorney General Richard Blumenthal had argued that Conn. Gen. Stat. § 16-259a limits

... Continued Page 5

CenterPoint, Reliant Oppose Consolidation of Meter Dockets

CenterPoint Energy and Reliant Energy opposed the PUCT staff's motion to consolidate CenterPoint's advanced metering information network (AMIN) and advanced metering system (AMS) deployment dockets (35620, 35639).

CenterPoint cautioned that if the two dockets were consolidated (Matters, 6/19/08), AMIN implementation would be unnecessarily delayed for months, if not discontinued altogether. The AMIN program is designed to allow REPs to choose to install meters ahead of AMS deployment, which will require lengthy PUCT review. Consolidating the cases would remove the accelerated nature of the AMIN program, CenterPoint reasoned.

"The Staff's Motion is therefore nothing more than an attempt to obtain a de facto dismissal of [CenterPoint's] application for AMIN approval by circumventing the normal PUC procedures," CenterPoint claimed.

CenterPoint argued there are very different issues of law and fact in the two dockets:

- AMS requests a surcharge; the AMIN application does not;
- AMS limits the number of meters that can be installed each month; the AMIN application includes no limits, subject to a REP's willingness to fund the requested installation; and
- AMS deployment will not begin before the fall of 2009; the AMIN proposal seeks installations in time for the 2008 and 2009 summer peaks.

Reliant Energy, the only REP thus far to sign an AMIN agreement with CenterPoint, added that a decision in the AMIN docket will not set precedent for consideration of the AMS deployment, or otherwise have bearing on that case.

Reliant noted that delay would prevent REPs from offering new services made possible by advanced meters by the end of this summer. While some REPs may not be interested in AMIN, Reliant argued that, "there is no reason why all REPs should be denied the opportunity to participate in AMIN or why consumers should be denied its benefits."

AEP Proposes Protocol Changes for Interim 15-Minute Settlement of Smart Meters

AEP submitted PRR 766 and NPRR 136 to ERCOT as an interim solution to allow 15-minute settlement of advanced meters.

The protocol changes would support the interim settlement of all provisioned advanced meters using actual 15-minute data, the same way Interval Data Recorder (IDR) meters are settled today, until the long-term solution developed by PUCT Project 34610 (Implementation Project Relating to Advanced Metering) or future rulemakings is implemented.

The PRRs would allow retail customers to more effectively respond to price signals by supporting innovative retail product offerings, such as demand response, dynamic pricing, and Time-of-Use pricing, AEP explained. The changes would accelerate the timeline for the market to take advantage of the benefits of advanced meters, AEP added.

Under the PRRs, provisioned advanced meters would be assigned a weather sensitive IDR load profile. No Texas Standard Electronic Transaction (TX SET) changes would be required by the PRRs.

Manual Solution for Net Metering Banking at UI Would Not Provide Suppliers With Correct Info

United Illuminating could not begin to offer a yearly banking system starting April 1 for net metering customers until the first quarter of 2010, it reported to the DPUC in response to an interrogatory (05-06-04RE04).

In a draft decision, the DPUC ordered that banking begin April 1, but UI reported that such a directive would be not be feasible (Matters, 5/30/08).

UI first needs to complete an upgrade to its billing system, then take six to eight additional months to make necessary changes to billing and bill print systems as well as systems supporting all the various move in/move out scenarios, supplier switches, EDI processing, financial reporting, wholesale market reporting, inquiry screens and other reports.

While it is possible for UI to accommodate a manual solution in the interim, UI reported that

such a manual solution would not appropriately supply correct information to energy suppliers (either standard service or an alternate supplier) or provide correct reporting to the wholesale market since the billing system and the electronic interfaces to those external systems would be bypassed.

UI reported that 55 customers take service under its net metering rider, with 48 of those on Standard Service and seven with competitive suppliers.

Stakeholders Says CAISO CRR Credit Changes Too Discretionary

Several stakeholders think the California ISO's latest proposed revisions to Congestion Revenue Rights (CRR) credit policies give CAISO too much discretion in determining when and how to raise collateral requirements (ER08-1059).

CAISO filed revisions to its CRR credit policy due to the delay in implementing the Market Redesign and Technology Upgrade. Changes have been proposed to the currently effective tariff and the MRTU tariff.

The proposed changes would let CAISO adjust the credit requirements for CRR holders more frequently than monthly if the CAISO finds that actual or anticipated "market conditions" indicate that CRR credit requirements may be inadequate to cover the financial risk.

Modesto Irrigation District wants the triggers and methodology for calculating additional credit requirements included in the CAISO tariff as a term/condition of service, just as the calculation used for ongoing financial security requirements is included as CAISO Tariff Section 12.4.

"The specific language proposed by the CAISO provides the CAISO with too much discretion to adjust [credit] requirements," Modesto argued. The irrigation district urged FERC to order CAISO to develop criteria by which it will determine what "market conditions" require an adjustment in the credit requirements, and that the criteria be filed for comment.

Although CAISO already has discretion to adjust the credit requirements for holding CRRs with terms of one year or less to account for changes in the monthly auction prices for CRRs, the discretion to change credit requirements based on market conditions is much broader, Modesto contended. Monthly auction prices are known and quantifiable, while a change in "market conditions" is an amorphous concept, Modesto explained.

The Financial Institutions Energy Group, a group of power marketers, objected to CAISO's proposal to make CRR holders keep the ISO informed of all their affiliates, regardless of whether they are market participants in CAISO or another RTO. Reporting all of a marketer's affiliates to CAISO would be unduly burdensome while not enhancing protection of the CRR market, financial marketers claimed.

CAISO's wording regarding affiliates would, "extend to any entity that is remotely connected to the CRR Holder or Candidate CRR Holder, whether or not that entity's activities involve the CAISO market," financial marketers noted. Financial marketers may have hundreds or even thousands of affiliates throughout the world; one such marketer has over 1,200 affiliates and adds and eliminates over 200 affiliates in a typical year

CAISO has failed to demonstrate any meaningful nexus between its proposed burdensome reporting requirement and the goal of managing credit exposure arising from participation in the CRR markets, marketers explained. Financial marketers questioned the usefulness of reporting affiliates that have no connection to the CAISO market or any other wholesale power market.

Marketers added that the entities likely to be burdened by the disclosure requirements often support their CAISO market activities with a parent guaranty. "Because CAISO would look to the guarantor for payment, its identity is the only one that is of any consequence and CAISO has that information readily at hand," marketers observed.

Recent defaults in PJM's financial transmission rights market weren't caused by a lack of affiliate reporting, marketers argued, and PJM required participants to disclose affiliates that participated in PJM. PJM's defaults were caused by, "loosely enforced credit policies, as well as market rules that did not allow PJM to net obligations among affiliates in the event of a default," financial marketers contended.

Marketers suggested that affiliate reporting be limited to those affiliates holding CRRs or otherwise involved in the CAISO market, and

their guarantors. The requirement could be extended to affiliates marketing in other RTOs if needed.

Briefly:

Leach Energy Defaults on ERCOT Agreement
QSE Leach Energy Trading became the latest default in the ERCOT market, defaulting on its ERCOT agreement June 3. There was no mass transition of retail customers as a result of the default. As a result of the Leach default and other failures in the market, QSEs owed monies from ERCOT on invoices due on June 19 were collectively short paid $2,082,320.04. A breakdown by QSE follows:

QSE	Amount Short Paid
National Power of Houston	$1,246,213.27
HWY 3 MHP	$456,277.80
Sure Electric (Riverway)	$348,447.43
Leach Energy Trading	$31,381.54

Conn. Working Group to Study Lifeline Rates
The Connecticut DPUC created a working group among electric and gas utilities to examine issues relating to customers with serious illnesses or life threatening situations (SILTS). The decision (07-10-17) leaves to the working group any recommendations regarding the establishment of lower rates available only to SILTS customers (lifeline rates). The DPUC also directed that the working group explore and propose how energy conservation services available from the utilities or government could be used to reduce uncollectibles created by SILTS customer accounts left unpaid (Matters, 5/30/08).

EnerNOC Inks SCE Deal
EnerNOC has entered into a 110-MW demand response contract with Southern California Edison (SCE) which expires in 2012, subject to PUC approval.

Texas Energy Plan ... from 1

Since so much of Texas's generation is gas-fired, it would take significant investment to displace expensive gas units which is needed to lower prices, the draft concludes, noting that generation construction costs are increasing. Thus, reverting to a regulated market would subject Texans to substantial new costs from guaranteeing returns for new generation without having a meaningful downward impact on the overall level of electricity prices, the report argues.

The report recommends that the PUCT revisit its REP certification requirements and evaluate whether current standards are adequate given the significant change in natural gas and wholesale electricity market conditions since 2002 when the market opened.

State policy should continue to recognize that residential electric customers need to be educated in order to make informed decisions about their energy purchases and needs, the draft recommends. The draft favors reinstitution of funding for the PUCT's customer education efforts.

Policymakers should recognize that growing energy demand can be met either by increasing power generation, by encouraging energy efficiency and customer demand response, or by a combination of both, the draft urges.

Thus, the PUCT should have the authority to require deployment of advanced meters as rapidly as possible, the report suggests, and ensure that ERCOT incorporates the most cost-effective means of providing that all retail customers have the option to be settled on 15-minute interval data in order to receive the full benefits of changes in consumption behavior and generation from solar panels and other distributed sources.

Texas should not create new mandates for any particular generation technology, as poorly-crafted subsidies can have far-reaching and unintended consequences that may result in higher costs to consumers, the report cautions. But the current RPS should be maintained for regulatory certainty, it added.

The PUCT and ERCOT should study whether an additional operating reserve service to help manage the intermittency of wind energy would be a cost-effective solution to more reliably integrating wind energy to the grid, the council notes. Such a service could be provided by quick start natural gas units, demand response, or storage solutions.

The PUCT should require ERCOT and the transmission utilities to study dynamic line ratings in West Texas to show available transmission capacity more accurately and allow for more efficient use of transmission facilities,

the draft recommends. The PUCT should also identify any legal or regulatory issues that prevent the development of merchant transmission investments that could provide additional privately-funded transmission.

CL&P Billing ... from 1

companies from collecting amounts related to inaccurate bills to one year from the date of service, while also preventing companies from making up the arrears by increasing a customer's bill by more than 50% of the customer's 12-month average bill.

But under the draft the DPUC would conclude the one-year window is the timeframe given to a company to discover any inaccurate billings it might have made, not the timeframe within which the company must recoup all underbilled charges that arose from inaccurate billing. Indeed, payment plans to collect the arrears from inaccurate billing can extend beyond one year from the date of the error, the DPUC would find.

The draft would give customers at least 12 months to pay any backbilled amounts, which is longer than the provisions of Conn. Gen. Stat. § 16-259a. The statute only requires that the time not be shorter than the time over which the error occurred.

In addition to the six suppliers listed above, Constellation NewEnergy, Integrys Energy Services and TransCanada Power Marketing had customers impacted by the billing problems which resulted in the need for higher re-bills. All suppliers are to provide each affected customer with an outstanding balance a payment plan which prorates all arrearages over a period of 12 months, with no payment charged under any plan exceeding 50% of the average of the customer's bills for the previous 12 months. Suppliers can offer customers longer payment plans, and customers may choose to pay their arrears in a lump sum.

Additionally, Conn. Gen. Stat. § 16-259a(b) prohibits an electric supplier from holding a customer financially liable for an inaccurate bill if the delayed billing "would deprive the customer of the opportunity to apply for or receive energy assistance," the draft notes. Accordingly, the draft would order all suppliers who direct (dual) bill affected customers to determine which customers, if any, have lost the opportunity to apply for or receive energy assistance when they were backbilled, or determine which customers would lose that opportunity. All electric suppliers would be prohibited from holding any such customers financially liable for any arrearage amounts resulting from the billing problem and would have to forgive all such arrearages. Suppliers would have to submit a report which describes: the method the company used to determine which customers lost, or would lose, energy assistance; the actual number of customers under that category; and the total dollar amounts the company already collected from such customers.

The draft concludes that while the CL&P's actions during the development of the data system needed to handle the Time-of-Use transition were reasonable, it is CL&P's actions after a Jan. 3 testing failure that are unreasonable and therefore imprudent. The draft finds that it was unreasonable for CL&P to have been unaware of the billing problems from the time of the Jan. 3 failure to Feb. 1, when an exception report indicated that bills had not been issued.

Specifically, the draft finds fault with CL&P's communications within its own organization, to the DPUC, and to certain competitive suppliers affected by the billing errors.

CL&P's internal communication regarding the problem indicated that the metering, billing and supplier relations groups were not all informed at the same time. CL&P's communication to the DPUC "occurred much too late." CL&P's communication to affected electric suppliers was also much delayed, the draft notes.

The draft criticized the "troubling" fact that CL&P's lead supplier relations staff were not aware of the billing problems until mid to late February, while the billing system indicated that bills had not been issued on Feb. 1.

Communication to affected competitive suppliers was also poor, the draft observes. While 1,368 of the affected accounts were served by marketers, communication of the billing system error to the affected suppliers did not appear to be consistent, the draft notes. While one supplier was informed of the problem on Feb. 22, most suppliers weren't aware until an official communication from CL&P on March 5.

Along with the disparity in time in contacting the affected electric suppliers, the draft questions why the notice did not appear sooner, since CL&P was aware of the problem Feb. 1. The delay in informing supplier relations staff of the problem prevented any chance for a more timely notification to suppliers, the draft concludes.

Because of the imprudence, the draft agrees with the AG that customers should be held harmless for the cost to remedy the problems caused by the billing system error. The draft would order CL&P to file a report that is to specifically identify and quantify all incremental costs arising directly or indirectly from the billing system error so that they are not recovered in future proceedings. The draft would not impose penalties, as requested by the AG, because the imprudence disallowance is a sufficient action.