Energy Choice Matters

June 30, 2008

ComEd Asks for Permission to Market Residential Real-Time Pricing

Commonwealth Edison asked the Illinois Commerce Commission (08-0411) to approve changes to its Integrated Distribution Company (IDC) implementation plan that would allow it to advertise its Residential Real-Time Pricing program (RRTP).

The IDC rules are designed to prevent ComEd from favoring a merchant affiliate, and do not allow a distribution company to, "proactively act to retain or obtain a customer for any of the IDC's retail electric supply services."

ComEd reported enrollment in RRTP has severely lagged goals. The goal was to enroll 110,000 customers by the end of 2010, but at the end of March, only 5,900 customers have signed up. ComEd is now targeting 13,000 enrollments by the end of the year, well behind the goal of 45,000 through 2008.

ComEd blamed the arms-length relationship between it and the program administrator (Comverge) for hindering customer awareness and enrollment in RRTP. The arms-length relationship limits the extent the administrator can benefit from ComEd's experience with and understanding of its customers, and prevents cross-marketing with ComEd's Nature First and energy efficiency programs.

Current IDC rules prohibit distribution companies from promoting, marketing or advertising any Retail Electric Supply Service, which is simply defined as the retail sale of electricity, whether bundled or unbundled. IDC rules do not, however, prohibit the marketing of interruptible and load curtailment programs. Since RRTP includes elements of load curtailment and retail supply service, the IDC rules' applicability is not clear, ComEd said.

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PUCT Staff Suggests Limited Pilot for CenterPoint AMIN Program

CenterPoint Energy's Advanced Meter Information Network proposal is not consistent with PURA or PUCT Substantive Rules and "may run afoul" of Commission rules prohibiting discrimination, Commission Staff argued in testimony (35620, Matters, 6/24/08).

The Commission's Substantive Rules contemplate geographic deployment of advanced meters in order to allow all customers to have the opportunity to take advantage of new products and services from REPs, Christine Wright of the Commission's Competitive Markets Division testified.

But CenterPoint's AMIN program would extend meters only to customers served by a REP with the financial wherewithal to support the program, Wright noted.

Broad, robust deployment of advanced meters is needed for a "crucial" element of successful deployment, Wright added -- the ability of the market to manage load. The "sporadic or patchwork deployment" under AMIN, as opposed to concentrated, high-density deployment, will not accomplish that goal, Wright noted.

AMIN also has the potential to create a confusing hodge-podge of deployment and customer charges in the CenterPoint territory if AMIN and CenterPoint's advanced metering system (AMS) deployment are both approved, Wright cautioned. Some customers would have an advanced meter without a surcharge if they have an AMIN REP, some customers would pay an infrastructure surcharge and not have an advanced meter under AMS, and some customers would be paying both

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NSTAR-Mirant Changes Not Enough to Alleviate Competitive Concerns, Hess Says

Although a revised imbalance agreement between NSTAR and Mirant relieved some of Hess's concerns, Hess still believes the agreement, which gives Mirant an additional 5% imbalance tolerance, tilts the playing field in favor of Mirant without adequate justification (Matters, 4/25/08).

NSTAR filed a revised agreement (08-GC-1) which lifts a prohibition on Mirant trading its extra imbalance tolerances and also makes Mirant use the standard cashout methodology, as opposed to more a favorable methodology as originally proposed.

But NSTAR has still failed to prove that Mirant is significantly different from any other customer in meriting any extra imbalance level, Hess argued in an initial brief. While NSTAR has defended the added imbalance tolerance because Mirant must nominate its gas before knowing if it will be dispatched by ISO New England, Hess noted the mismatch has been longstanding, and that other customers face similar uncontrollable events which cause their gas demand to vary from their nominations.

The Massachusetts Institute of Technology added that the record evidence does not indicate how often there is a disconnect between Mirant's nominations and ISO dispatch, and if the risk is more than theoretical. MIT also pointed out that Mirant has two post-dispatch opportunities to avoid imbalance charges via inter-day trading.

MIT argued that it faces comparable risks to those Mirant faces in nominating gas supplies needed for generation, especially due to pressure problems on its system. Thus, if the DPU determines Mirant is entitled to extra imbalances, it must make the same finding for MIT and order NSTAR to extend MIT the extra imbalance tolerance, MIT reasoned.

Mirant would have saved about $42,000 in penalties if the extra imbalance tolerance had been in place from 2005-2007, Hess reported, an anti-competitive economic benefit not available to any other market participant.

Hess favors making Mirant pay a fee for the added imbalance tolerance, and that the same extra tolerance be available to marketers for the same fee. In the alternative, Hess suggested that the DPU initiate a proceeding to revise the standard terms and conditions applicable to marketers to determine whether the imbalance tolerance should be raised for all marketers and customers.

If the balancing agreement is merely an economic concession granted to Mirant to drop opposition to NSTAR's rate agreement with Algonquin, approval would create an unwelcome precedent, MIT cautioned. Such a precedent would encourage parties to intervene in any relevant DPU proceeding in the hopes of securing concessions from the utility petitioner, resulting in more prolonged and contentious proceedings.

NRG Files Complaint Over Entergy Rates Due to Bonus Pay

NRG Energy filed a complaint against Entergy at FERC, alleging that the formula rate utilized by Entergy to establish its Point-to-Point and Network Service transmission service rates for 2008 allows Entergy to include millions of dollars in bonus payments to Entergy employees that should not be passed on to transmission customers (EL08-72).

NRG wants FERC to find that it is not just and reasonable to pass such costs on to Entergy's captive customers, and to set the Entergy's formula transmission rates for hearing and settlement proceedings.

According to NRG, the rates filed by Entergy include bonuses:

1) Paid to employees based on the financial performance of the company, including specifically the performance of unregulated generation units;

2) That have no relation to the quality of the transmission service provided by Entergy; and

3) That are paid to employees that spend none of their time administering the Entergy transmission system.

NRG alleged there is a "perverse incentive" for such employees to increase shareholder profits by reducing investment in the transmission system, thereby lowering the quality of the transmission service provided by Entergy.

Industry changes have resulted in the existing formula transmission rates no longer accurately distinguishing between bonuses received by Entergy employees who are "shared" between the company's merchant generation and transmission functions, NRG explained. The current rates allow Entergy to book one-half of the bonuses received by these shared employees to its transmission rate base, even though the bonuses are distributed based on Entergy's profitability, which is largely driven by its unregulated power sales revenues, NRG claimed. "The rates thus do not reflect the current deregulated market, or adequately ensure that captive transmission customers are not subsidizing Entergy's non-regulated businesses," NRG told FERC.

The bonus pay provides no incentive for Entergy employees to better serve their transmission customers because the bonuses are not designed to reward employees for running an efficient transmission system, NRG argued. Instead, the bonus compensation is directly tied to factors such as the financial performance of Entergy Corp. and the price of the company's stock. In NRG's view, incentives to increase shareholder profitability are properly borne by Entergy's shareholders and should not be included in transmission rates.

The current condition of the Entergy transmission system does not justify bonus payments to Entergy executives for their work on the transmission system, NRG asserted. The transmission system in Entergy suffers from numerous transmission constraints and lacks sufficient infrastructure to even reliably fulfill its firm transmission service obligations, NRG claimed.

According to NRG, there were 29 Level 5 Transmission Loading Relief events (TLRs) issued on the Entergy system in 2007, resulting in the curtailment of over 47,000 MW of firm transmission service. In the first five months of 2008, Entergy's Independent Coordinator of Transmission has already issued 17 Level 5 TLRs curtailing more than 42,000 MW of firm transmission service, NRG reported. The Entergy TLRs represent more than 18% of all Level 5 TLRs called throughout the Eastern Interconnection in 2007, and over 21% of the Level 5 TLRs called in the Eastern Interconnection in the first five months of 2008, NRG told FERC.

NRG also pointed to an increase in redispatch of network resources experienced by Entergy's transmission customers in the first five months of 2008. NRG found that the ICT has already called for about 16,093 MW of redispatch of network resources through May, compared with the redispatch of only 2,933 MW of network resources in 2007.

Briefly:

Michigan Senate Passes Bill Capping Electric Choice

The Michigan Senate passed 21-14 its version of HB 5524 which would, among other things, limit electricity shopping to no more than 10% of a utility's average weather-adjusted retail sales for the preceding calendar year. Residential rates would be deskewed over the next decade. There are some differences from the House's version of the bill, though none materially related to the limitation on competitively served load, but the bills will have to be reconciled before going to the governor.

R.I. Gov. Vetoes Long-Term Renewable Contracts Bill

Citing higher costs to customers, Rhode Island Gov. Don Carcieri, R, vetoed a renewable energy bill that would have forced National Grid to sign 10-year PPAs with green developers for 9% of its supply by 2013. Carcieri criticized a provision which would have compensated National Grid for its risk in signing the PPAs under which Grid would have received a payment equal to 3% of the renewable power it bought. Carcieri also opposed a carve-out for 5 MW of solar in the bill, citing its higher costs. Carcieri faulted the bill for not requiring renewable projects to be located in Rhode Island. Although the bill passed both chambers by veto-proof majorities, legislative leaders have not committed to schedule an override vote at this time.

PUCT Staff Moves to Get One-Time Oncor Credits Rolling

The one-time $72 million credit Oncor is to provide to customers by passing it through REPs could soon move forward after PUCT Staff, along with other parties to the case, moved to withdraw its petition for a review of Oncor's rates in docket 34040, per a stipulation agreement in docket 34077. Once dismissal is approved by the Commission, Oncor is to provide a one-time $72 million credit to REPs to be directly paid or credited to retail customers as detailed under agreements in docket 34077. The credits are to be provided within the first full Oncor billing month that starts at least 45 days after the Commission dismisses 34040. REPs only get the credit if they agree to pass it fully through to customers.

ERCOT Short Paid Nearly $1 Million for June 26 Invoices
QSEs owed monies from ERCOT on invoices due on June 26 were short paid a collective $953,262.38 due to lingering effect from defaults in the market. The amount ERCOT was short paid by QSE is:

QSE	Amount Short Paid
HWY 3 MHP (QSE)	$547,581.49
Leach Energy Trading	$74,757.73
National Power (QSE)	$5,748.23
Sure Electric (Post Petition)	$91,991.89
Sure Electric dba Riverway Power	$233,183.04

Oncor Files Rate Increase
Oncor filed with the PUCT to increase rates by about $275 million, with $45 million of the increase coming from transmission rates and $230 million from the provision of Retail Delivery Service (35717). If the full request were accepted by the PUCT, the impact would be $5.09 per month for an average residential consumer, assuming the customer's REP fully passes through the hike.

ALJ Favors Luminant in Discovery Dispute
A PUCT ALJ ruled in favor of Luminant regarding discovery of documents in Staff's investigation of an inaccurate resource plan submitted by Luminant in 2006 (34996). The ALJ agreed that the documents in dispute were covered by lawyer-client or work product privilege (Matters, 4/3/08). The ALJ added that Staff did not show both "substantial need" and "undue hardship" to make discovery of such documents permissible.

ERCOT Nodal Test Successful
ERCOT has successfully completed a live run of the nodal real-time market in a test involving 55 energy schedulers that placed the ERCOT market entirely under nodal system control for 29 minutes.

PUCO Staff Proposal on New Security Plans Expected This Week, Docket Assigned
PUCO has assigned docket 08-0777-EL-ORD to consider adoption of rules for standard service offer, corporate separation, reasonable arrangements, and transmission riders for electric utilities pursuant to sections 4928.14, 4928.17, and 4905.31, Revised Code, as amended by Amended Substitute Senate Bill No. 221. Staff proposed rules are anticipated to be released July 2.

ComEd RRTP ... from 1

ComEd argued that since RRTP shares many elements and value-drivers with its load curtailment programs, ComEd should be allowed to market the program in the same way.

ComEd does not make a profit off RRTP sales. The program passes through spot market PJM prices to customers, and ComEd has no ability to control or manipulate prices to compete with alternative retail electric suppliers, it reported.

Specifically, ComEd suggested:

• More prominent use of the ComEd logo in conjunction with RRTP; and

• Including RRTP in ComEd promotional materials, including on its website and with energy efficiency, Nature First and low-income marketing materials.

AMIN... from 1

an infrastructure and AMS surcharge with an advanced meter. Customer confusion resulting from that scheme could thwart customer acceptance of smart meters and limit customers' willingness to take advantage of new products and services offered by REPs, Wright observed.

AMIN also appears to favor one financially strong REP, Reliant Energy, Wright testified, since Reliant was involved in drafting the AMIN agreement. Since Reliant has already executed an AMIN agreement, and given the expedited nature of the case, Wright concluded that the proposal gives unreasonable preference to Reliant, and unreasonably discriminates against other REPs.

Wright suggested that AMIN be limited to a pilot program to alleviate those concerns. Wright recommended deployment be either limited to 25,000 meters per REP, or capped at

50,000 for the entire market, with the number available to each REP corresponding to its market share.

Wright favors imposing an expiration date on AMIN so it does not interfere with meter deployment under AMS, and suggested meters under AMIN only be available for order until October 31, 2008. AMIN should also be deployed geographically in such a way to optimize efficiency and reduce the potential for unnecessary costs in the AMS deployment, Wright argued.

Meanwhile, CenterPoint staked out its position in a series of RFIs to various parties who don't favor the AMIN program as designed.

For example, CenterPoint asked the Alliance for Retail Markets how a robust competitive market exists if one REP's unwillingness to offer unique capabilities from a smart meter is allowed to preclude another REP's ability to offer competitive products and services.

CenterPoint also asked ARM, the Texas Energy Association for Marketers and TXU Energy whether they would support allowing certain customers to purchase an advanced meter quickly rather than waiting "potentially years" for a geographic deployment of meters. CenterPoint cited customers buying electric cars, installing solar panels, or purchasing smart appliances as those that could benefit from quicker deployment of smart meters.

CenterPoint also asked TEAM, regarding geographic deployment, whether TEAM believes it is efficient to place meters on the premises of end-use customers who will not or cannot make use of them while not deploying them on the premises of customers who can and will make use of them.

Additionally, CenterPoint requested that TEAM, "confirm that counsel for TEAM has personally represented at least one REP in private negotiations with [CenterPoint] regarding the deployment of advanced meters," and whether TEAM views such contact in the same negative light as it does Reliant's contact with CenterPoint.