Energy Choice Matters

July 16, 2008

California RECs Would Include Avoided Emissions Under Draft

A REC in California could not be unbundled to separately count for RPS and greenhouse gas emission (GHG) offsets, a draft PUC order would rule (Matters, 6/13/08). The PUC is to address the issue of unbundled and/or tradable RECs (TRECs) for RPS compliance in a later decision (R. 06-02-012).

The draft decision, which would include "avoided emissions" in the definition of a REC, goes against the position of retail marketers, IPPs and the utilities who argued that avoided emissions should not be included in the REC, but instead should be a separate, distinct attribute.

Clarifying the definition and attributes of a REC is increasingly important given that RECs are playing a larger role in several aspects of energy policy, including participation in net-metering, the California Solar Initiative, the Self-Generation Incentive Program, tariffs or standard contracts for utilities' purchase of RPS-eligible generation from certain facilities sized at or below 1.5 MW, and voluntary programs reducing emissions of greenhouse gases (GHG).

The draft agrees with parties who argued that a REC "logically" should include the attribute of avoided fossil fuel emissions, since that is among the benefits renewable generation is intended to produce. The draft also would hold that a REC used for RPS compliance should not be used as a GHG offset, because it is clear from the very definition of an offset that, once counted for RPS compliance (and thus falling under the "otherwise regulated" exclusion for emission reductions), a REC can have no GHG offset value.

In other words, since RPS generators are built under a "business as usual" scenario to meet RPS, they are developed irrespective of the opportunity to sell GHG offsets, the draft states. As such, any

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Constellation, Maine Co-ops See Law Creating Opt-Out "SOS" at Non-IOUs

Recent Maine legislation that allows consumer-owned utilities (COUs) to aggregate their load for the purpose of purchasing generation services on behalf of customers is not meant to limit retail choice for COU customers, Constellation Energy told the Maine PUC in response to an inquiry (2008-250).

Repealing retail choice would be a "significant event" for those customers, and the legislature would have expressly stated such, Constellation noted. Instead, legislators included language which stated that, "customers of consumer-owned transmission and distribution utilities that have received such approval may continue to purchase generation services directly from competitive electricity providers," Constellation pointed out.

Thus, the statute requires that the Commission adopt rules that retain the right of customers to purchase generation directly from competitive retail electricity providers, rather than eliminate retail choice, Constellation explained.

Dirigo Electric Cooperative, whose members include among others Eastern Maine Electric Cooperative and Houlton Water Company, agreed, noting that the intent of the law was to allow cooperatives to negotiate cheaper supply contracts by stabilizing customer loads for set periods, not eliminating choice entirely. Rather, open-season windows would allow customers to opt-out of the aggregation pool to take competitive service for the duration of the pool's supply contract, thus reducing migration risk while preserving choice.

Load aggregation should take the place of SOS under the Restructuring Act, Constellation added.

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SDG&E Wants to Build, Own Small Solar Installations

San Diego Gas & Electric has applied to the California PUC to build and own 35 MW (measured in alternating current) of distribution-connected solar photovoltaic capacity under the SDG&E Solar Energy Project (A. 0807017).

SDG&E justified the need for the program given the "gap" in solar installations 1-2 MW (a.c.) in size. Installations under 1 MW are eligible for the California Solar Initiative, while larger projects are governed by RPS solicitations. To date, SDG&E reported that no projects 1-2 MW (a.c.) have been developed under its RPS solicitations. Thus SDG&E considers that size market underdeveloped. Southern California Edison made similar claims in justifying its proposed utility-owned solar program (Matters, 5/15/08).

Another 17 MW (a.c.) would be owned by customers or other independent third parties under the program.

Total cost is to be $250 million over five years.

Although some projects could be larger, SDG&E expects most PV installations to be 1-2 MW (a.c.), and hosted by owners of open areas or parking lots, such as local governments or shopping malls.

SDG&E asked funding to support the project in the amounts of $214,000 in 2008 and $1.6 million annually from each year from 2009 until included in the base margin generation revenue requirement after SDG&E's 2012 General Rate Case for annual administration and preliminary development costs.

TIEC Offers Conditions for SWEPCO Turk CCN

Given the excess capacity that would result from the construction of SWEPCO's Turk Plant and SWEPCO's ability to beat the market price, at least for a time, by selling power based on "average" costs, the PUCT will need to be "vigilant" to ensure that SWEPCO's retail ratepayers are not harmed by sales to power marketers, remote utilities beyond SWEPCO's control area, or other wholesale customers, Texas Industrial Energy Consumers argued in a list of proposed conditions it wants included in the Turk CCN (33891, Matters, 7/4/08).

Although it may seem obvious, TIEC urged the Commission to specifically state in the CCN order that the granting of the CCN does not waive the Commission's rights in subsequent rate cases, fuel reconciliations, rulemakings, or other proceedings to make determinations as to the appropriate allocation of costs related to contracts that SWEPCO enters into with wholesale customers.

The Commission should also stress that the approval of the CCN in no way approves any ratemaking treatment under any arrangements in which SWEPCO sells power to wholesale customers for resale, directly or indirectly, to other wholesale customers.

Those two conditions are to help prevent "sweetheart deals" made possible by ratepayer subsidization, TIEC explained, one of the conditions Chairman Barry Smitherman cited in voting for a CCN with conditions.

TIEC also suggested language for other conditions discussed by Commissioners, including limitations on recovery of increased construction costs caused by permitting delays, limitation on retro-fitting costs if ultra-supercritical technology is abandoned, and limits on carbon costs attributable to ratepayers.

In response to discussion at the open meeting regarding whether such conditions would stand up to legal review, TIEC insisted that the Texas Supreme Court's decision in *Texas-New Mexico Power Company v. Texas Industrial Energy Consumers,* 806 S.W.2d 230 (Tex. 1991) supports conditional CCNs.

Md. PSC Staff Seek to Start Gas Consumer Protection Rulemaking

The Maryland PSC Staff asked the Commission to activate Rulemaking 35 to develop consumer protection regulations governing gas retail supply. Staff noted that previous COMAR gas protections have been repealed and there are currently no COMAR regulations relating to consumer protection for competitive gas service.

Staff made its request in a filing to further amend language adopted in RM17, relating to consumer protection for retail electric service. Staff suggested that gas regulations parallel RM17 language.

In its latest RM17 filing, Staff offered for publication previously issued language relating to customer bankruptcies. The language states that, for reasons other than supplier default, a utility may only remove a customer from competitive service where directed by the supplier, subject to applicable bankruptcy law.

Staff also offered for publication the non-unanimous working group language concerning supplier defaults supported by Staff, Baltimore Gas and Electric and the Office of People's Counsel (Matters, 6/5/08).

Market to Meet N.Y. Reliability Needs Through 2017

Proposed market-based solutions, together with implementation of planned upgrades to the bulk power system, meet or exceed New York reliability requirements through 2017, says the New York ISO 2008 Comprehensive Reliability Plan (CRP) issued yesterday.

NYISO received 3,380 MW of market-based proposals in response to its earlier Reliability Needs Assessment (RNA), including 425 MW of demand-side management, 1,905 MW of generation, and 1,050 MW of transmission.

The CRP finds that resource adequacy will be met by development of at least 2,350 MW of those projects. To address specific reliability needs within the state:

- 1,000 MW of new resources should be located in or available to serve New York City,
- 1,050 MW should be located in the lower Hudson Valley, and
- 300 MW can be located anywhere in New York State.

At this time, New York does not have to implement regulated backstop solutions offered by transmission owners or alternative regulated solutions submitted by other developers. Stakeholders at the PSC have been debating a process to select such solutions, if needed (Matters, 7/10/08).

NYISO did note that further delay in completing Consolidated Edison's M29 transmission project could cause reliability concerns in New York City for 2011 in the absence of other improvements or additions. In the 2008 RNA, the project was assumed to be in service for summer 2010, but the planned in-service date is now prior to summer 2011.

FERC OKs Transition for CAISO Queue Reform

FERC approved the California ISO's transition process to clear the queue as CAISO readies its reform process (ER08-960).

Under the ISO's plan, Interconnection Requests (IRs) are divided into the Serial Study Group (whose IRs will continue to be processed), the Transition Cluster, and the Initial Generation Interconnection Process Reform (GIPR) Cluster. IRs from the latter two groups will be deferred as the queue is cleaned. Some generators had protested CAISO's selection of Serial Study Group projects as discriminatory and potentially harming reliability (Matters, 5/30/08).

But in the Serial Study Group the CAISO appropriately identified later stage IRs that can be processed efficiently under the existing Large Generator Interconnection Procedure process in order to facilitate the transition to a more efficient and timely interconnection queue management process, FERC found.

IRs not advancing during the transition process will still receive "prompt" treatment under the CAISO's reformed queue management process, either as Transition Cluster IRs, or as part of the initial GIPR cluster, FERC added (Matters, 7/11/08).

CAISO's proposed suspension of study responsibilities is reasonable given the alternatives of either continuing with the current interconnection procedures without reform, or simply reforming the procedures without any transitional period, FERC explained. Processing all current IRs would delay needed reforms and continue currently unacceptable delays, but if the CAISO were to simply implement the reforms without any transition period, much effort could be wasted, as the CAISO would conduct numerous studies that would become obsolete once the new reforms were implemented on unfinished IRs.

FERC affirmed that the existence of an approved or pending PPA with a load-serving entity is a reasonable criterion for a project's inclusion in the Serial Study Group.

Briefly:

CenterPoint Energy to Circulate Draft AMIN Settlement By Friday

CenterPoint Energy expects to circulate a draft settlement agreement regarding its Advanced Meter Information Network proposal to parties before July 18. Ongoing settlement talks have produced "substantial agreement on critical issues," CenterPoint told the PUCT (35620), and the TDSP has been charged by the parties to prepare a draft consistent with the talks (Matters, 7/10/08).

N.Y. PSC to Wait for State Plan Before Tackling Long-Term Infrastructure

A New York ALJ ruled yesterday that Phase III of the PSC's long-term reliability and infrastructure planning proceeding (07-E-1507) should be held in abeyance pending completion of a State Energy Plan initiated by an executive order (Matters, 6/11/08). The deferral is to avoid duplicative efforts as stakeholders work on the State plan due in June 2009.

New ERCOT Wind Forecast Available

ERCOT's Aggregate Wind Power Forecast is now available at www.ercot.com/gridinfo/generation. The report contains rolling 48-hour wind forecast data and is updated hourly. The forecast stems from PRR 763, Use of Wind Generation Resource Production Potential as Planned Operating Level in Day-Ahead Resource Plan for Wind Generation Resources.

Pepco Smart Meter Trial Set for Launch

Pepco's PowerCentsDC smart meter program is to start July 21, offering 1,200 randomly selected D.C. residents either hourly pricing, Critical Peak Pricing, or Critical Peak Rebate pricing (Matters, 7/3/08). About a quarter of participants will also receive a free smart thermostat that will reduce central air conditioner compressor use in response to a radio signal during high priced periods, and also display real-time consumption and pricing data.

EnerNOC Teams with R.I. Government

EnerNOC inked a five-year contract with the state of Rhode Island that allows individual government buildings to enroll with EnerNOC to participate as demand resources in various ISO New England markets.

Calif. RECs ... *from 1*

avoided emissions attributed to that project are not additional, and RECs retired for RPS should not be used for GHG compliance.

The draft's definition of a REC will not require any renewable generation with no GHG emissions to need GHG allowances, the draft stated.

Specifically, the draft states that a REC for compliance with the California RPS is, "a certificate of proof, issued through the Western Renewable Generation Information System, that one megawatt-hour of electricity was generated and delivered by an RPS-eligible renewable energy resource. A REC includes all renewable and environmental attributes associated with the production of electricity from the eligible renewable energy resource, including any avoided emissions of pollutants to the air, soil or water; any avoided emissions of carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, or any other greenhouse gases that have been determined by the United Nations Intergovernmental Panel on Climate Change, or otherwise by law, to contribute to the actual or potential threat of global climate change; and the reporting rights to these avoided emissions, such as Green Tag reporting rights."

RECs would exclude the attributes prohibited from a REC per legal requirements, such as emission reduction credits issued pursuant to § 40709 of the Health and Safety Code, or any credits or payments associated with the reduction of solid waste or treatment benefits created by the utilization of biomass or biogas fuels.

The PUC noted the draft ruling is consistent with WREGIS since WREGIS tracks only whole RECs and not separate attributes. Once a REC is designated for a particular use at WREGIS, it is not possible to pull out and separate any one attribute or set of attributes. Thus, if a REC is retired in WREGIS for California RPS compliance, the entire bundle of attributes in the REC is retired. If the REC is retired because it is being used as an offset for GHG emissions in the current voluntary market, or in some other context in the future, the entire bundle of attributes is likewise retired, the draft explained.

Maine COUs ... from 1

As such, load aggregation would be available to all customers in the COU service territory who do not opt-out of the program. Dirigo suggested calling it Load Aggregation Service.

Constellation believes that COUs should be strongly encouraged by the Commission to aggregate their loads. "The Commission has developed successful policies for providing investor-owned utility customers with a competitively priced, reasonably stable universal default service while maintaining a customer's ability to choose a retail CEP. COU customers deserve no less," Constellation reasoned.

Accordingly, load aggregation should emulate SOS as much as possible, urged Constellation. Practices and procedures currently employed by the Commission to purchase SOS on behalf of the state's investor-owned utilities should be employed by the COUs.

COUs should be given the opportunity to aggregate their loads across service territories, Constellation suggested, since very small loads are not likely to attract a great number of wholesale competitive suppliers, if any.

Any load aggregation that is authorized by the Commission should be opt-out, Constellation added. Opt-out aggregations are much more likely to result in a larger pool of customers and therefore a more attractive load to bidders, claimed Constellation. "It is quite likely that an opt-in program would fail due to customer inertia," Constellation predicted.