Energy Choice Matters

July 17, 2008

O&R MHP Cutoff to be Lowered to 500 kW

The New York PSC granted a request from retail marketers and lowered the mandatory hourly pricing (MHP) threshold at Orange and Rockland to 500 kW, subject to a further Commission order on a specific implementation plan, as part of an order approving O&R's rate case (07-E-0949).

The issue of mandatory hourly pricing was omitted from a joint proposal in O&R's rate case, but retailers in comments on the JP asked that the cutoff be lowered from the current 1,000 kW to 500 kW, consistent with Commission precedent and orders at other utilities (Matters, 5/5/08).

The Commission concluded that lowering the MHP cutoff would facilitate efforts to reduce peak demand, which in turn could lower peak prices and enhance peak reliability.

Subject to an implementation plan and customer education efforts, the MHP cutoff could be lowered to 500 kW by early 2009.

ALJ Gerald Lynch chastised retailers for not offering testimony on MHP or raising the issue earlier in the case. He called it "bothersome" that MHP was not raised until after a joint proposal had been issued, and discouraged stakeholders from such action.

A final order was not available yesterday, but the Commission followed the JP, "in large part."

Other ESCO-beneficial provisions contained in the JP include creation a single Merchant Function Charge (MFC); a study to determine the feasibility of offering customers initiating utility service a chance to participate in O&R's ESCO Referral Program; and a single Bill Issuance and Payment Processing (BIPP) charge that will only appear on full service customer bills.

Mich. PSC Staff Wants Approval of Retailer Residential Contracts, Marketing Plans Before Use

Staff Also Favors Long-Term, Fixed Price Green Product at Detroit Ed

Alternative electric suppliers at Detroit Edison would have to submit residential contracts and marketing materials for PSC review, and residential customers would 30 days to cancel a competitive supply contract, under a Michigan PSC Staff proposal offered in Detroit Ed's rate case (U- 15244).

Sheila Cornfield, departmental analyst in the Commission's regulated energy division, recommended that Staff review and approve AES residential contracts and marketing materials at least five business days before the AES intends to use the materials. That provision is part of the Gas Customer Choice Program tariff, and is necessary to protect customers from misleading or deceptive practices, Cornfield testified.

Cornfield also proposed extending the current three-day rescission period to 30 days because three days is not sufficient time for the utility to notify customers by mail of their pending enrollment with an AES before the switch may be executed. A 30-day cancellation period is consistent with the Gas Customer Choice Program tariff, Cornfield noted.

Cornfield opposed Detroit Ed's proposal to change the pricing option that customers default onto when they return to bundled service from competitive supply and do not make an affirmative choice for which bundled tariff they wish to be served under.

Currently, customers default to Short-Term Service (Option 2) when returning to Detroit Ed, a plan which does not include a minimum stay. Detroit Ed in its rate case proposed changing the default selection to Long-Term Service (Option 1), which commits the customer to Detroit Ed for 12-months of bundled service.

Cornfield opposed the change because it would unknowingly commit customers to term service,

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DPUC Affirms Peaker Sale Premiums Belong to Ratepayers

The Connecticut DPUC affirmed its decision that any premium received in the sale of a ratepayer-backed peaker must be distributed to ratepayers (08-01-01).

PSEG and Bridgeport Energy II had asked that the sale premium provision be removed since their merchant projects are not considered "public service companies" under law (Matters, 7/11/08).

But the DPUC explained that the fact that the peakers are not public service companies is irrelevant since its finding was not based on that fact. Rather, the Department is applying cost-of-service principles to a voluntary Contract for Differences the peakers can choose to not execute.

The Department added that since ratepayers are guaranteeing cost recovery for the peakers for upwards of 30-40 years, the Contract for Differences is distinguishable from a typical PPA and is more valuable. Ratepayers create that value by guaranteeing recovery of prudent costs, while such cost risk would be borne by developers and investors absent the Contract for Differences. Thus it's appropriate for ratepayers to keep the sale premium that their contract creates.

The DPUC also denied Bridgeport Energy II's request to push back the August 1 deadline for signing the Contract for Differences to account for potential appeals of the Department's decision which may alter the Contract for Differences. The DPUC observed that the Contract for Differences already address that concern, and forgives the peaking plant owner from any liquidated damages for non-performance arising from an appeal.

Granting Bridgeport Energy II's request could result in "bizarre and unfortunate results," the DPUC noted, by allowing an appeal with little or no impact on Bridgeport Energy II (such as an appeal to add another project) to delay execution of the contract.

The DPUC also clarified that any increase in PSEG's capital costs resulting from a 2012 rather than a 2011 in-service date would be dealt with in the manner specified in the Department's December 2007 decision, under which capital expenditures that exceed the cost estimate by less than 5% are determined to be prudent. Capital expenditures between 5% and 10% greater than the estimated cost at the time of the proposal will be recoverable, if prudent, but must withstand a higher level of scrutiny. Any amount above 10% will be presumed imprudent, and, therefore, not recoverable from ratepayers, although that presumption is subject to rebuttal.

Briefly:

U.S. Gas & Electric Wins Ohio Gas License

PUCO granted U.S. Gas & Electric a natural gas marketer's license, over objections from Stand Energy (08-601-GA-CRS, Matters, 6/20/08). PUCO noted that Stand Energy did not offer evidence to substantiate its New York slamming allegation, although PUCO did clarify that the its natural gas application does not distinguish between formal and informal investigations, and that any matter that could adversely impact the applicant's financial or operational status or ability to provide service must be disclosed. Still, the allegations made by Stand with regard to slamming were not sufficient for PUCO to reach a conclusion that slamming occurred or even that any investigation has been undertaken in New York. PUCO also explained that a settlement between the SEC and U.S. Gas & Electric relating to security sales does not raise issues of continuing concern because of related terminations and management changes.

National Grid Audit in N.Y. to Include Procurement Review

Supply procurement for mass market customers will be one of the elements examined by a New York PSC comprehensive management audit of National Grid's electricity business (08-E-0827). The Commission gave Staff approval to issue an RFP for the audit yesterday. The audit is to identify and evaluate supply portfolio principles and objectives for mass market customers, evaluate risk management strategies and practices, and review supply procurement strategies, policies, processes, and methods as well as financial and physical hedging practices. The audit will also examine the role of demand management/response, energy efficiency, and migration of retail customers to competitive suppliers in Grid's portfolio and procurement processes. The audit is to begin in November

with a final report to the Commission due in December 2009.

Unique Circumstances Prompt N.Y. PSC Approval of Seneca-National Fuel Gas Supply Transfer
The New York PSC's approval of the transfer 15 miles of Seneca Resources pipeline around Olean to sister company National Fuel Gas Supply Corporation, "should not be construed as encouragement for other retail customers to routinely bypass NY regulated gas utilities and transfer to service by FERC-regulated pipeline entities," PSC Staff observed (07-G-0378). Through the transaction, the three customers served by Seneca will be served by National Fuel Gas Supply Corp. under FERC jurisdiction. Staff would prefer that a New York regulated gas utility, with much more retail service experience, would provide service, but the Commission approved the transfer on Staff's recommendation because the neighboring National Fuel Gas Distribution Corporation and NYSEG distribution systems could not accommodate the customers. There are no National Fuel Gas Distribution facilities nearby, while NYSEG would face volume and pressure constraints in serving the customers.

NYPA Abandons Clean-Coal Effort with NRG
Citing costs, the New York Power Authority ended its alliance with NRG Energy to build a 680-MW Integrated Gasification Combined Cycle coal plant at NRG's Huntley Station, forcing NRG to cancel the project. NYPA said that even with current subsidies, power from the proposed plant would still have needed an extra $175 million to $200 million in annual subsidies to be cost competitive.

Calif. PUC Sets Workshops on Demand Response Avoided Costs
The California PUC scheduled two workshops on development of utility demand response programs (R. 07-01-041). At a July 31 workshop, IOUs will be required to demonstrate their avoided cost calculations and discuss the assumptions used and the consequences of those assumptions in the final calculated avoided cost numbers. The methods used by the IOUs to calculate avoided costs for use in the cost-effectiveness analysis are not fully understood by parties and the Commission, and parties continue to have different assumptions that have unknown effects on the avoided cost numbers, an ALJ noted. An August 1 workshop is to study specific proposals for quantifying the value of different notification times and program trigger mechanisms in demand response programs. Some parties have argued that the value of flexible dispatch triggers and superior notification times (such as day-ahead vs. day-of, or hour-ahead vs. 15 minutes ahead) is an important factor in determining a cost-effectiveness methodology, but little record evidence exists to quantify those values.

Pepco Inks Md. Deal Through Loyalton Group
Pepco Energy Services signed a 20-month contract for 148 million kWh with the Gaylord National Resort and Convention Center in Prince George's County, Maryland. The Loyalton Group facilitated the contract.

PSE&G Solar Loan Program Now Ready for Residentials
PSE&G will begin offering its solar loan program to residential customers today after reaching agreement with various stakeholders on language for the loan agreements. PSE&G is offering financing to support 6 MW of solar power, which should equate to 900 residential customers. PSE&G has already been offering the program, approved in April (Matters, 4/9/08), to business customers.

LS Power Creates Green Unit
LS Power Group created a dedicated business unit to pursue the development, acquisition, and ownership of renewable energy projects, particularly wind, solar photovoltaic and solar thermal installations. John King, formerly of Calpine and with LS Power since 2005, will head LS Power's renewable energy initiative.

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in contravention of Commission orders requiring customers to make a positive commitment to stay with Detroit Ed for 12 months.

Cornfield also suggested that Detroit Ed implement similar or identical residential Return to Service provisions recently adopted in

Consumers Energy's rate case (Matters, 6/11/08), in which the Commission exempted residential customers from notice and minimum stay provisions. Constellation NewEnergy made similar recommendations.

In separate testimony, Staff urged the Commission to keep choice customers from paying for inter-class distribution rate subsidies, a finding the Commission made in Consumers' rate case. Detroit Ed has petitioned to make retail access customers pay for the subsidies.

Staff Proposes Long-Term Green Product

Staff also proposed that customers be able to buy a long-term (five or more years), fixed-price green product from Detroit Ed. The utility's current GreenCurrents program does not offer a long-term fixed price.

Staff sees a long-term fixed price giving customers greater value, and argued that the product should relieve customers from the obligation to pay for variations in Detroit Ed's underlying power supply cost and at least some future environmental compliance costs.

Staff did not commit to an appropriate long-term fixed rate but suggested several methods to price the product. One method could be for Detroit Edison to devise a standard offer contract which covers essentially all important criteria with the exception of price, and thereby allow suppliers to bid for the price at which they will agree to offer their renewable energy products. Another method could be through the use of an auction process where interested buyers and sellers come together to negotiate prices. Staff believes an internet auction could be established for this purpose. "It could even be possible for Detroit Edison to charge customers only for delivery and load balancing services, while allowing the long-term renewable energy price to be determined on a bilateral basis between interested customers and suppliers," Staff testified.

Staff also proposed that suppliers to the GreenCurrents program be offered an option of selling renewable energy into the program under a long-term fixed price, through the use of a standard offer contract for the purchase of electricity produced by qualifying in-state renewable resource facilities, similar to an Austin Energy program.

Staff does not support Detroit Ed's request to recover from all ratepayers the costs incurred for GreenCurrents marketing and administration, citing a court decision protecting customers who do not volunteer for green options from paying for such programs.

CNE Urges Changes to Boost Choice

Terry Harvill, Vice President and Director of Retail Energy Policy for Constellation Energy Resources, urged the Commission to spur changes in Detroit Ed's tariffs to enhance customer choice, especially given the declining shopping levels.

The Purchase of Receivables and Utility Consolidated Billing programs discussed in Consumers Energy's rate case are a simple step that can be an important component in creating a market that's friendly to residential and small commercial customers and the suppliers that wish to serve them, Harvill noted.

Harvill also suggested increased funding of customer education efforts and the creation of balancing and energy delivery requirements for AES's that are fully transparent and use the same load profiles used by Detroit Ed for estimating its own residential usage (similar to requirements recently adopted in Consumers' rate case).

Special contracts, Harvill added, should no longer be offered, given the approval of rate deskewing. With deskewing, Detroit Ed’s rate structures will reflect their relevant cost of service, and thus any discount or concession rate, by definition, will be below cost, create a new subsidy opportunity, and send improper economic signals to customers. Therefore a special contract application cannot, as required for approval, sustain a showing that it will not detract from the Commission's policies relating to competition and will not impede the development of competition in the utility's service territory.

Harvill also urged that Detroit Ed be directed to use competitive procurement to select new generation, since the utility seeks recovery of certain costs from ratepayers associated with securing a nuclear combined operating license in the rate case.

Harvill added that even if currently pending legislation which would cap choice at 10% of

system sales is approved, "it is my judgment that the cap will be short-lived. Customers will not long tolerate being captive to a single supplier, especially when they have alternatives for their communication, transportation, heating, and other 'utility' services."

Energy Michigan offered testimony arguing that Detroit Ed's proposal would over-allocate certain overhead costs to distribution rates and calculated that approximately $165 million should be shifted from distribution to power supply rates to correct the problem.