Energy Choice Matters

July 21, 2008

Review of Modifying ConEd's PowerMove to Cover Service Initiation Moves Forward

The New York PSC has set for July 30 in Albany a technical conference (07-E-0523) regarding the ability of customers to enroll in Consolidated Edison's ESCO Referral Program when initiating service. The session will also cover the issue of non-ESCO access to ConEd's Retail Access Information System (RAIS).

ConEd has proposed to offer customers initiating service the opportunity to enroll in its PowerMove ESCO Referral Program by modifying its existing new service initiation process. During service initiation calls, ConEd customer reps will explain that the applicant has the option of receiving supply from an ESCO by enrolling with an ESCO through the PowerMove program, or receiving supply service from ConEd. ConEd plans to make that request to residential and small non-residential electric service applicants and all firm service gas service applicants when initiating service, with the exception of retroactive service initiations with an effective date for the service more than 10 calendar days before the date of the call.

When a new customer enrolls their electric service in the PowerMove program, the effective date of electric service with the ESCO will be the effective date of the service initiation. That's not possible for gas service because retail access gas service starts on the first calendar day of a month. Thus when a new gas customer enrolls in the PowerMove program, the effective date of gas service with the ESCO will be the first day of the next month, or the first day of the month following, based on the date that the new service order is processed. A new gas customer's initial gas bill will include supply charges from ConEd.

Under ConEd's proposed schedule, new service customers enrolling their electric service in PowerMove would not have a notice period or the opportunity to rescind their enrollment with the

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N.Y. LSEs' Liability for 2002 Capacity Under-Procurement Still an Open Question

FERC accepted part of a settlement between eight New York load serving entities and KeySpan-Ravenswood to resolve claims from the New York ISO's under-commitment of capacity in 2002, but ordered further proceedings to determine what relief, if any, other generators should be able to claim from LSEs (EL05-17-003).

The case involves the New York ISO violating the filed rate doctrine and using differing methodologies to set unforced capacity (UCAP) as it relates to capacity obligations. For the summer of 2002, generators' UCAP was based on 12-month outage rates of approximately 5%, while LSEs' UCAP purchase requirements were based on ten-year outage rates of approximately 10%. Using a higher outage rate to calculate the LSEs' UCAP purchase requirements effectively reduced the amount of capacity LSEs were required to purchase and correspondingly reduced the amount of capacity sold by generators both statewide and in-City.

Ravenswood filed a complaint due to its lost revenue, and a circuit court agreed with Ravenswood that using different methodologies violated the filed rate doctrine.

On remand, Ravenswood and eight LSEs (Consolidated Edison, the New York Power Authority, Consolidated Edison Solutions, Constellation NewEnergy, KeySpan Energy Services, Strategic Energy, Hess, and Econnergy) reached a settlement that would collectively pay Ravenswood $5 million for under-procurement.

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Constellation Sees Negative Impact on Marketers, Choice Customers in MGUC Proposals

Constellation NewEnergy has filed for late intervention in Michigan Gas Utilities Corporation's (MGUC) rate case to protest proposed changes regarding Operational Flow Orders (OFOs), tolerance level penalties, and increased choice rates (U-15549).

MGUC proposed a new provision that grants MGUC the right to call an OFO when storage operating conditions are such that the system's ability to accommodate excess supplies is hampered.

MGUC's calling of OFO days when its pipeline provider, ANR, is not, and the way MGUC has changed the method for calculating OFO penalties this year from last year, are issues that the PSC needs to address, Constellation said.

"Constellation is currently experiencing large volume customers having prior period adjustments made by MGUC due to incorrect meter reads. Both Constellation and customers are and will be charged penalties that are not of Constellation's or their own doing," Constellation reported.

MGUC also wants to lower the nomination tolerance level from 125% to 110% in order to match the tolerance level applied by MGUC's interstate pipelines.

According to Constellation, MGUC's application and supporting materials also propose substantial increases in MGUC's rates for choice service.

Brokers in BlueStar Complaint Urge ALJ to Dismiss Case

The three brokers that are the subject of a complaint under Illinois' new ABC law are working together on a motion to dismiss, and suggested that, during a status conference today, an ALJ should set the schedule for filing that motion to dismiss, briefs and any subsequent pleadings, testimony, or hearings (08-0364).

American Energy Solutions, Affiliate Power Purchasers International and Lower Electric are the subject of a complaint by BlueStar Energy Services, which alleged that the new law requiring registration of ABCs under certain circumstances is enforceable even though the ICC has yet to issue rules to implement the law (Matters, 6/5/08).

The three ABCs also urged the judge to consider dismissing the proceeding on the ALJ's own motion, as the ABCs consider the complaint deficient on its face, "and that being forced to defend against it is an anticompetitive act in itself."

Generators Attack CAISO Exceptional Dispatch Proposal as Excessive Mitigation

Generators raised a host of concerns regarding the California ISO's proposal for Exceptional Dispatch at the start of the Market Redesign and Technology Upgrade, telling FERC that such measures would overly mitigate prices (ER08-1178).

The CAISO anticipates that Exceptional Dispatches will typically be required to address a transmission constraint or generating unit operating constraint that was not captured in the models used in the Integrated Forward Market, the Reliability Unit Commitment, or the real-time market. Because a resource that receives an Exceptional Dispatch Instruction would not be subject to market power mitigation processes under MRTU tariff provisions, CAISO explained that mitigation measures are required to prevent suppliers from exercising local market power when they anticipate that they might be subject to Exceptional Dispatch.

But the Western Power Trading Forum argued that Exceptional Dispatch is already mitigated by its inability to set a nodal market clearing price, and by the Energy Bid offer cap. The CAISO's proposal would mitigate Exceptional Dispatch three times more, first by preventing a unit from being paid its bid price in the first four months following MRTU implementation, a second time by preventing non-RA, non-RMR and Interim Capacity Procurement Mechanism capacity from earning its bid price when Exceptionally Dispatched, and finally by capping the level of revenues Exceptionally Dispatched resources could earn above their Default Energy Bid.

WPTF explained that a supplier's ability to exercise local market power when Exceptionally

Dispatched depends entirely on the supplier's ability to anticipate such Exceptional Dispatch. Thus if Exceptional Dispatch is truly infrequent and unpredictable, a supplier will not be able to anticipate the onset of an Exceptional Dispatch event. Moreover, if a supplier changes its bidding behavior after receiving an Exceptional Dispatch to try to take advantage of the subsequent hours of an Exceptional Dispatch event, the CAISO's Department of Market Monitoring should easily be able to detect such behavior and take appropriate action. "Excessive ex ante mitigation of extra-market mechanisms such as Exceptional Dispatch should not substitute for effective market monitoring," WPTF noted.

Reliant Energy also cautioned that there is a "substantial gap" in the actual costs incurred to respond to an Exceptional Dispatch and the settlement revenues which CAISO proposes to provide to units responding to an Exceptional Dispatch instruction.

Under CAISO's proposed mitigation measures, a resource responding to an Exceptional Dispatch instruction would receive the higher of its Default Energy Bid or LMP instead of its bid price.

But the variable cost Default Energy Bid compensation proposed by CAISO for Exceptional Dispatches is based on day-ahead natural gas prices that do not account for higher natural gas costs that may be incurred when the Exceptional Dispatch occurs on an intra-day basis, Reliant explained.

CAISO's Exceptional Dispatch compensation proposal does not provide compensation for natural gas LDC balancing charges and penalties incurred to respond to an unanticipated Exceptional Dispatch, Reliant added.

Reliant suggested that market distortions caused by Exceptional Dispatch could be reduced by requiring CAISO to model constraints and address modeling issues that create the need for Exceptional Dispatch.

CAISO should be required to develop market monitoring tools or protocols to detect whether market bids submitted by a generation resource subject to Exceptional Dispatch result from market power, Reliant noted.

"Such a tool could replace the categorical assumption of market power that is a feature of the CAISO's Exceptional Dispatch proposal," Reliant told FERC.

SCE Says ESP Bond Requirements Fall Short of Law

The California PUC's existing bond requirements for electric service providers must be modified because they do not meet the requirements of California law, Southern California Edison claimed in a docket relating to security required for community choice aggregators (R. 03-10-003, Matters, 5/28/08).

In a nuthsell, SCE argued that the PUC has never found that the current $100,000 ESP bonding requirement, which was in place prior to AB 117, meets AB 117's requirement that ESPs and CCAs provide security to cover the payment of re-entry fees on behalf of customers involuntarily returning to bundled service. The re-entry fees are intended to avoid imposing costs on bundled customers from the involuntary customer transition.

SCE pointed out that the PUC has never established such re-entry fees and thus it cannot be determined that the current ESP bonding requirement is adequate to cover those fees.

SCE urged the Commission to adopt re-entry fees to cover the following incremental costs of a return to bundled service that would be borne by full service customers absent security:

- Administrative costs;
- Energy procurement costs;
- Resource Adequacy Requirements (RAR) costs;
- Renewable Portfolio Standards (RPS) costs;
- Carbon emission reduction compliance costs (starting in 2012);
- Any other costs required or permitted by the Commission to be incurred by the utility in discharging its obligation to serve.

Once re-entry fees are determined, ESP and CCA bonding requirements should be adjusted accordingly, SCE argued.

West Penn Binding Poll Defers on Retail Access Issues

The Pennsylvania PUC in a binding poll supported West Penn Power's (Allegheny Power) default service procurement plan to start Jan. 1, 2011. The plan uses a mix 12-, 17- and

29-month contracts and spot-market purchases for full requirements service. A final order must still be issued.

The poll defers to future cases, among other retail access issues, purchase of receivables, referral programs, and changes to existing consolidated billing practices.

In a statement, Vice Chair James Cawley encouraged parties to resolve those issues voluntarily.

West Penn's plan includes a rate mitigation option that would allow customers to defer portions of a large rate increase for as long as three years. The plan covers default service provided from January 1, 2011 though May 31, 2013.

The PUC separately adopted UGI Utilities' default service procurement plan which uses a mix of full-requirements swing service, peaking supply, and block energy purchase default supply bids. UGI was directed to answer several questions such as how it will meet Alternative Energy Portfolio Standards and how it will provide aggregate level Peak Load Contribution data to all potential wholesale supply bidders and PLCs for individual customers to electric generation suppliers so as to provide equal access to customer information required to accurately and efficiently price customer electricity services.

FERC OKs Retirement-Based Default Bid in RPM

FERC accepted with modification PJM's proposal to offer two sets of default bids (or avoided cost rates) to generators under the Reliability Pricing Model; one based on a mothballing assumption and another based on a retirement assumption (ER05-1410-007 et. al.).

Although the Maryland PSC and others raised concerns about the retirement-based default bid (Matters, 6/11/08), FERC agreed with PJM that the addition of the default option for retiring units will increase their incentive to remain available for the RPM auctions.

FERC accepted the PSC's suggestion that the affidavit generators must sign to use the retirement default bid must include the date on which the unit would be retired and a statement that, "the unit would be retired because it would be uneconomic without the retirement," rates so as to avoid the potential for abuse.

FERC also approved the PSC's request that PJM publish the number of units and the number of megawatts per Locational Deliverability Area that use the retirement default rates.

However, FERC rejected as unnecessary the PSC's request that PJM's market monitor be required to write and publish its opinion on whether a particular unit would be uneconomic without the higher retirement default avoided cost rate payment, since the market monitor already has that authority.

Briefly:

Start-up Targeting SoCal to Sell DG, Carbon and Efficiency Solutions

As customer demand for energy services such as green energy, carbon neutrality, energy efficiency and distributed generation continue to blur the line between commodity retailing and traditional energy services, start-up INTI Energy Solutions is focusing on the Southern California market to sell customers solutions to lower their carbon footprint. INTI Energy Solutions will offer solar installations and energy audits and touted its multi-lingual team that will target Spanish and Chinese communities.

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Dynegy, however, protested that the settlement would extinguish all claims related to the case, and argued that Rest of State generators are entitled to refunds stemming from under-procurement as well (Matters, 4/30/08).

FERC found that the issue of refunds to other generators should be severed from the Ravenswood settlement, noting that if the Commission had found in its original orders on Ravenswood's complaint that NYISO had violated the filed rate doctrine, it would have extended any remedy provided to Ravenswood to all generators affected by the violation.

The Commission determined uncertainty exists over two issues of material fact: 1) how to calculate the effect of NYISO's filed rate doctrine violation on the contesting parties, and 2) whether some or all of the refunds that might otherwise be due need not be paid on equitable or other grounds. It set both issues for evidentiary hearings.

ConEd PowerMove ... *from 1*

ESCO before the effective date of enrollment as currently provided in the Uniform Business Practices. Thus, ConEd would request a waiver of the UBP rules providing customers a notice period and the ability to rescind their enrollment, or would alternatively suggest new notice periods applicable to service initiation. New service customers enrolling their gas service in PowerMove will have the standard 15-day notice period.

ConEd estimates that implementation costs associated with backoffice systems to implement the proposal would total $101,715. An additional $66,047 would be needed for hiring, training and equipment for five new customer service reps needed to maintain PSC-mandated customer service levels, since each service initiation call will take added time to discuss the PowerMove option. Ongoing operations and maintenance costs associated with expansion of the PowerMove program would total $310,274 annually.

ConEd proposed that participating ESCOs fund the PowerMove expansion. One-time implementation costs of $167,762 would be divided evenly among the ESCOs participating in the program at the time of implementation, or $8,388 if the current 20 ESCOs participate. New ESCOs wishing to participate in the PowerMove program would pay a one-time fee equal to the amount paid by the initial ESCO participants. That fee would be used to pay down ongoing costs paid by all ESCOs.

Ongoing operations and maintenance costs would also be equally divided among participating ESCOs, or $15,514 per ESCO if there are 20. Ongoing operations and maintenance costs would be evaluated each year and will consist of an estimate of costs for the following year and a true-up for the difference between the past year's actual and estimated costs. Annual ongoing charges would be assessed to ESCOs on January 1st of each year. New ESCOs joining PowerMove would be assessed a prorated charge for ongoing costs based on the number of months remaining in the year they join the program.

ConEd would require that all current and new ESCOs participating in the PowerMove program accept new service customer enrollments and pay their portion of the implementation and ongoing operations and maintenance costs for its proposal to be implemented. All charges to ESCOs would be deducted from ESCOs' monthly Purchase of Receivables disbursement.

ConEd estimated that it would take seven months to complete the PowerMove expansion to include new service customers. ConEd would require an expression of intent to participate from all ESCOs participating in the PowerMove program prior to proceeding with any implementation tasks.

Since implementation, 85,000 customers have enrolled with an ESCO through the PowerMove program.

ConEd also addressed modifications to the RAIS website to ensure that interested customers and their authorized representatives have access equivalent to that which is provided to ESCOs.

ConEd has made changes to allow non-ESCOs to access the site without a password to obtain information in the "Capacity and Energy Issues" and the "Account Information and Billing History Lookup" sections.

However, ESCOs can also access the "Download" section which, among other things, allows ESCOs to access a list of all their accounts and download hourly consumption for those accounts. These features are made possible through ESCOs' use of EDI, ConEd explained, and the utility does not otherwise track relationships between unique accounts (such as all the accounts in the name of a single entity) or the relationship between accounts and their authorized energy consultant, and therefore has no means to provide a list of non-ESCO account information. Non-ESCOs can obtain hourly data for single accounts via an alternate method, ConEd added.

ConEd noted business rules similar to the EDI protocols and UBPs would need to be developed to create non-ESCO customer lists that protect customers' confidentiality. Aside from the technical logistics of developing a communications protocol, ConEd observed that the questions of customer authorization, customer notification, and enforcement would need to be answered. ConEd asked how authorization would be tracked, whether an account could only have one authorized consultant representative able to access RAIS, and how changes in such consultants would be treated.

Creating and managing any new process in RAIS, with separate and distinct business rules that will be different from the current rules in place for ESCOs, would require a significant cost investment, ConEd added, and cost recovery would need to be resolved.

Comments on both the PowerMove expansion and RAIS modifications are due August 22.