Energy Choice Matters

*July 29, 2008*

# Retail Market Guide Revision Would Further Speed Mass Transitions

The Texas SET Working Group has submitted Retail Market Guide Revision Request 63 (RMGRR 063) relating to the mass transition process to minimize the time that customers are on POLR service and to ensure that customers eligible to receive the Lite-Up Texas low-income discount are identified to the POLR during the mass transition. The Texas SET working group requested Urgent status for the revision request so that it can be implemented before any potential future mass transitions.

Under the proposed changes, the mass transition completion date would be no more than five calendar days after ERCOT generates and the TDSPs receive the 814_03 transactions for all affected ESI IDs, rather than five retail business days.

The revision request would also direct ERCOT to provide a list of ESI IDs to any REP (both POLR and non-POLR) with any pending switch transactions for mass transition customers with a scheduled date greater than two business days after the mass transition date (including switches in-review and scheduled). The lists will include the ESI ID, requested date or scheduled date.

The provision of the lists is meant to answer concerns from REPs that the current rules do not make REPs aware that some of their pending switches are customers that may be dropped to POLR, and that REPs may want to expedite the switch so customers can avoid being placed on POLR despite having switched away from the mass transition REP (Matters, 6/12/08).

Such REPs would be directed to take action to work with the customer to expedite the switch in order to minimize the time the customer is served by the POLR. REPs could use a move-in

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# Marketers Urge FERC to Deny Delay of New Capacity Release Rules at Two Pipelines

A group of gas marketers urged FERC (RM08-1 et. al) to deny the request of two pipelines to extend the date by which they have to comply with revised capacity release rules, including the new exemption from Commission prohibitions on tying and bidding requirements for releases associated with asset management arrangements (AMAs).

The changes, approved by FERC in June (Matters, 6/20/08), are to be implemented by July 30. Southern Star Central Gas Pipeline wants an extension until September 30 while Iroquois Gas Transmission System filed for an extension until November 1. Both pipelines cited necessary computer system upgrades and small staffs as prompting the need for an extension.

The extensions would presumably prevent shippers on the two pipelines from engaging in capacity release transactions authorized under the Commission's revised rules during the waiver periods, the Marketer Petitioners observed.

Neither pipeline has actually demonstrated that it cannot, in some manner, accommodate the capacity release transactions authorized under the Commission's new rules, marketers added.

For example, the revised rules exempt pre-arranged releases of capacity associated with AMAs from the capacity release bidding requirements. The pipelines already have the capability to make informational postings about non-biddable releases, i.e., releases at maximum rates or for 31-days or less, marketers noted. According to the marketers, Southern Star and Iroquois have not shown why they cannot, in some fashion, post information about pre-arranged releases associated with AMAs and other non-biddable releases authorized by the Commission's revised rules.

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## Clearview Electric CEO Files for Another REP Certificate

The CEO of Clearview Electric has filed at the PUCT for a certificate for a new start-up REP called Pulse Energy (35928).

Francis McGovern, CEO of Clearview since 2006, would serve as CEO of Pulse Energy, which reported on its REP application that it has no affiliates as defined by PURA. However, in addition to apparently sharing a CEO and two others officers with Clearview, Pulse Energy would also "leverage" distribution channels in place for competitive local exchange carrier Quality Telephone, where McGovern is also CEO after founding the CLEC with operations in 25 states in 1997.

McGovern was previously national manager of new product development for GTE/Verizon.

Clearview markets a pre-paid type product in the Oncor and CenterPoint areas with a true-up after six months. Clearview also offers service in New York primarily through the ConEd and NiMo ESCO Referral Programs, with a variable rate after the introductory discount, and sells in Connecticut as well.

Pulse Energy would meet the REP credit requirements though use of unused cash resources of at least $100,000.

## Public Citizen Wants PUCT to Omit Dispatch Preference from CREZ Order

The PUCT should refrain from ruling on dispatch preference in its final written order on Competitive Renewable Energy Zones in docket 33672, Public Citizen and other environmental groups urged.

Public Citizen noted that at the last open meeting, at which time the Commission generally adopted CREZ Scenario 2 with several issues to be fleshed out in a final order, Commissioners discussed their desire not to have renewable energy result in nuclear power or possibly clean coal energy being ramped down due to wind, and considered including such language in the final order (Matters, 7/18/08).

Public Citizen urged the Commission to not include any dispatch language in such an order, since the Commission has consistently ruled throughout the CREZ docket that issues regarding dispatch priority are outside the scope of the docket and are properly reserved to docket 34577.

Public Citizen recommended that any dispatch decision be deferred to docket 34577 so that a record may be developed, since a record on the relative merits of different dispatch priorities does not exist in the CREZ docket.

## FERC OKs Load Migration Rules for CAISO CRRs Supported by Retailers

FERC accepted as filed the California ISO's compliance filing regarding load migration and Congestion Revenue Rights (CRRs) in an order conditionally accepting CAISO's proposed revisions to its financial transmission rights tariff under the Market Redesign and Technology Upgrade (ER07-869-001).

Under the CAISO proposal, supported by the Alliance for Retail Energy Markets, CAISO will make adjustments to current CRR holdings between allocations to reflect the net amount of load that has migrated between two LSEs.

The adjustment will be performed by creating and allocating equal and opposite sets of new CRRs for each pair of LSEs affected by load migration. Under this proposal, the load-gaining LSE will receive a set of new CRRs, in the same MW quantities as the net amount of the load that migrated to it. These new CRRs will match the sources and sinks of all the CRRs previously allocated to the net load-losing LSE. The load-losing LSE will then receive a set of offsetting CRRs that are opposite in direction to each of the CRRs allocated to the load-gaining LSE.

Under the CAISO's proposal, an LSE who loses or gains net load through load migration will have its annual eligible quantity of CRRs reduced or increased, in the next annual CRR allocation, in proportion to the net load lost or gained through load migration. In addition, an LSE that loses or gains load through load migration will have its eligible quantities in the Priority Nomination Process reduced or increased, respectively, in proportion to the amount of load lost or gained.

FERC agreed that allowing only the load-gaining LSEs to nominate CRRs in the Priority Nomination Process is a reasonable allocation that ensures that load-gaining LSEs can appropriately hedge themselves against the congestion charges they will incur due to migrating load.

The Commission rejected arguments from Southern California Edison that the CAISO plan would disadvantage load-losing LSEs.

FERC also accepted CAISO's change to use the revised non-coincident peak load forecasts supplied to the California Energy Commission for resource adequacy purposes on a monthly basis 60 days prior to the start of the relevant month for CRR load forecasting purposes. FERC found such a measure would resolve AReM's concern about forecasts measuring capacity and not energy, because the use of non-coincident peak load forecasts reflects the actual energy loads LSEs expect for the month.

## Md. PSC Staff Proposes SOS RFP Schedule

The Maryland PSC Staff filed proposed bidding schedules for SOS RFPs through the 2009-2010 delivery year. All utilities have completed their transition to laddered two-year contracts for small customer SOS, and BGE, Pepco and Delmarva in the RFPs will be procuring 25% of their residential and Type I SOS load. Bidding for Type I and residential SOS will occur on October 20, 2008 for a June 1, 2009 power flow, and April 20, 2009 for October 1, 2009 power flow.

For Type II quarterly bidding, procurements will occur on October 20, 2008 (Dec. 1, 2008 flow), January 12, 2009, April 20, 2009, June 8, 2009, October 19, 2009, and January 11, 2010.

Retail prices (assuming no reserves are needed) would be posted according to the following schedule:

**October 20, 2008 Procurement**
(Dec. 1 Flow Type II; June 1 ‘09 Flow Type 1 / Residential)
Retail Pricing Posted: October 31, 2008

**January 12, 2009 Procurement**
(March 1 Flow)
Retail Pricing Posted: January 23, 2009

**April 20, 2009 Procurement**
(June 1 Flow Type II; Oct. 1 Flow Type 1 / Residential)
Retail Pricing Posted: May 1, 2009

**June 8, 2009 Procurement**
(Sept. 1 Flow)
Retail Pricing Posted: June 19, 2009

**October 19, 2009 Procurement**
(Dec. 1 Flow)
Retail Pricing Posted: Oct 30, 2009

**January 11, 2010 Procurement**
(March 1 Flow)
Retail Pricing Posted: Jan. 22, 2009

Allegheny Power also filed its proposed schedule to procure residential SOS on a laddered basis to serve customers when rate caps expire Jan. 1, 2009. Allegheny would procure power on the following schedule.

| Bid Date | Blocks to Be Bid | Contract Duration |
|---|---|---|
| Oct. 20 | 1 5-month block | 1/1/09 - 5/31/09 |
| | 2 29-month blocks | 1/1/09 - 5/31/11 |
| | 2 12-month blocks | 6/1/09 - 5/31/10 |
| Jan. 12 | 2 12-month blocks | 6/1/09 - 5/31/10 |
| | 1 12-month block | 6/1/10 - 5/31/11 |
| | 1 24-month block | 6/1/10 - 5/31/12 |
| April 20 | 1 12-month block | 6/1/10 - 5/31/11 |
| | 1 24-month block | 6/1/10 - 5/31/12 |
| June 8 | 1 12-month block | 6/1/10 - 5/31/11 |
| | 1 24-month block | 6/10/10 - 5/31/12 |

Each block is about 48.5 MW

## D. C. OPC Wants PSC to Reconsider Net Metering Compensation

The D. C. Office of People's Counsel petitioned for reconsideration of the PSC's decision to pay net metering customers the full retail rate (including transmission and distribution charges) for excess generation (FC 945, Matters, 6/27/08).

OPC argued that the Commission's decision erred in citing that a full retail rate approach is being used in New York and Vermont.

OPC noted that several net metering tariffs in New York only pay the much lower avoided cost rate, while other provisions only call for payment at a rate per-kWh, but do not specify that such payment is to include the "full" retail rate or otherwise include non-energy components.

The People's Counsel also reported that since several New York utilities have flat monthly customer charges, their net metering programs cannot be thought of to compensate customers at the full retail rate.

Similarly in Vermont, net metering credits are carried over to a customer's next bill, and because bills carry a flat monthly charge, applying kWh credits from net metering to the next bill cannot be considered paying customers the full retail rate, OPC argued.

OPC believes paying net metering customers a rate that includes transmission and distribution is an unwarranted subsidy since such customers only provide generation service.

## P3 Warns of Dangers of State Power Authority

Involving state government in the energy industry through a public power authority is a "high-stakes policy gamble" which New Jersey policymakers would be wise to avoid, the PJM Power Providers Group (P3) argued in comments on the state's draft Energy Master Plan.

A state power authority has the potential to increase the price of energy, stifle investment, and compromise system reliability - the very items which the state of New Jersey is in fact trying to promote, P3 mused. Additionally, the financial burden New Jersey energy customers face today could be "dwarfed" by the commitments associated with a state government agency overseeing certain aspects of power generation, construction, operations and transmission, P3 cautioned.

"Most states have found that power authorities have been costly experiments without a corresponding yield in consumer benefit," P3 explained. P3 argued that the Tennessee Valley Authority, Bonneville Power Authority, New York Power Authority, Long Island Power Authority, and the Vermont Public Power Supply Authority have all changed over the years from their stated purposes, now require significant oversight, and have proved costly to taxpayers.

The Plan's goals of reduced demand and improved efficiency would be better met by competitive forces, P3 added, rather than a state authority which would chill investment.

P3 also encouraged policymakers to continue the use of the successful BGS auctions, as the results have consistently provided New Jersey consumers with competitively priced wholesale full requirements services and have become a "national model."

The generation coalition cautioned policymakers against any thought that leaving PJM would produce cheaper electricity. P3 noted that PJM's pool means the state can access over 160,000 MW; while isolating New Jersey to its own electricity island would mean customers would have to pay for a greater reserve margin to accommodate in-state generation or transmission contingencies.

"Although RPM has been in effect for slightly over one year, there is every reason to believe that it will lead to the necessary investments in new resources," P3 argued. P3 noted that over 14,500 MW of resources that likely would not have been available in the absence of RPM have been created.

While P3 agrees that it is too early to declare RPM an unqualified success, calls to end RPM are, "certainly premature and not a productive signal to those looking to invest in New Jersey and the PJM region."

## FERC Denies Rehearing of SoCalGas FAR Charge

FERC denied rehearing of its decision to reject a complaint from the Southern California Generating Coalition regarding Southern California Gas' Firm Access Rights (FAR) charge for access to its intrastate pipeline system, a fee approved by the California PUC (RP08-27-001).

Originally, FERC had ruled that the FAR charge did not encroach upon its exclusive jurisdiction over interstate transportation of natural gas because the FAR charge is imposed upon SoCalGas customers who have executed intrastate transportation agreements with SoCalGas, and thus the fee reflects specific intrastate services that SoCalGas provides to customers.

The Southern California Generating Coalition in a rehearing request argued that FERC erred by concluding the FAR charge related to intrastate service, because the FAR charge does not provide intrastate transportation rights and merely controls access by interstate shippers to SoCalGas' transmission system. Thus, a FAR rights holder obtains only access to

SoCalGas receipt points and not transportation rights, which has the effect of adversely affecting the operation of upstream firm interstate pipelines by diminishing the value of that capacity.

Accordingly, the FAR charge is preempted by federal jurisdiction because it is a charge that SoCalGas will levy for the right to nominate gas into the SoCalGas system instead of being a charge for a service that is provided after gas is received into the system, the Southern California Generating Coalition contended.

But FERC was not persuaded and continues to find that the FAR charge is part of intrastate service provided by SoCalGas and subject to the jurisdiction of the California PUC. The FAR charge is an unbundled portion of SoCalGas' backbone transportation service, FERC affirmed.

The firm access rights allow FAR holders not only a firm right to receive gas into the SoCalGas system, but also ensures delivery after receipt, under SoCalGas' transportation agreements, to a variety of points on the system, including to storage or to off-system delivery points, the Commission explained.

"Together the FAR charge and transportation service constitute firm service on SoCalGas' system, and are unquestionably intrastate service," FERC said.

FERC dismissed the Southern California Generating Coalition's focus on whether the FAR charge includes transportation service, since such determination is not critical to the Commission's determination that the FAR charge is intrastate in nature.

"Regardless of whether the FAR charge in and of itself provides for intrastate transportation service ... the FAR charge is inextricably linked to intrastate transportation service on the SoCalGas system. It is this inextricable link to intrastate transportation service that causes the FAR charge to not be subject to our jurisdiction under the NGA," FERC ruled.

## *Briefly:*

**RPM Buyers Fault Rebuttals to Transitional Auction Complaint**

RPM Buyers, in a supplemental affidavit from James Wilson of LECG, argued that responses from PJM and generators to RPM Buyers' complaint regarding the transitional auctions (EL08-67) merely stated "all RPM rules were followed," rather than addressing alleged problems with the rules (Matters, 7/11/08). In the much-cited Brattle Report, "There is no estimate of how the transition auction supply and demand balances, and resulting RPM prices, were affected by the loss of capacity and excessive capacity demand that resulted from the shortcomings in the RPM rules described in the report," Wilson said. Wilson also called Brattle's conclusion that RPM incented 4,600 MW of generation to not retire is, "highly implausible," due to market fundamentals.

**PUCT Opens Review of Non-Wind Renewable Goal**

The PUCT opened project 35792 to review rules relating to the 500 MW target for non-wind renewable energy resources that is set in PURA § 39.904(a). Stakeholders are asked to comment on whether additional measures for the support of non-wind renewable generation are necessary and appropriate in order to achieve 500 MW of non-wind renewable generation in Texas by 2015.

**Direct Joins DRAM**

Direct Energy is among the newest members of the Demand Response and Advanced Metering Coalition (DRAM). Direct is the only competitive energy retailer currently a member.

**Website Offers Comprehensive List of Efficiency, Green Incentives**

Website GreenMadeSimple.com claims to present the first comprehensive online database for local, state and national residential incentives, rebates, and special offers related to energy efficiency, renewables and related green products.

**NYMEX Launching RGGI Contract**

NYMEX will launch a Regional Greenhouse Gas Initiative (RGGI) carbon dioxide allowance futures contract on August 24, for the August 25 trade date. It will also list a RGGI options contract for trade date August 26.

## *RMGRR 063 ... from 1*

transaction in "extreme circumstances" as authorized by Commission designee under the new language. If the REP takes no action, the pending order will be allowed to complete on the originally scheduled date.

ERCOT is to also hold a mass transition coordination meeting with affected market participants on the same day that a mass transition is confirmed, if an email to market participants regarding the meeting is sent before 1500 Central Prevailing Time, thereby accelerating the mass transition. Currently, the guide calls for the meeting to be held the next business day, which is when the meeting would still occur if notice to market participants is not sent before 1500 Central Prevailing Time.

The PUCT is to provide a list of ESI IDs served by the mass transition REP that are eligible for the Lite-Up Texas discount to both POLR and non-POLR REPs.

If Urgency is granted, RMGRR 063 will be considered at the August 13th RMS meeting.

## *Capacity Release ... from 1*

While Southern Star and Iroquois may not have a specific check-off on their websites to designate a release as connected with an AMA, they should have "special provisions" or "comments" sections in their existing capacity release posting screens in which releasing shippers can indicate that capacity is being released in the context of an AMA or other non-biddable release, Marketer Petitioners suggested. Additionally, the pipelines currently should be able to accept bids manually or by e-mail for releases not subject to the maximum rate, the marketers argued.

"If the Commission were to permit two pipelines, like Southern Star and Iroquois, to operate under different capacity release rules than every other pipeline based on these filings, it would create gaps in the use of the interstate grid. Such gaps would lessen the reliability, flexibility and value of pipeline capacity at a time when storage is being filled and gas markets participants are preparing for the winter season," the Marketer Petitioners cautioned.

Marketers pointed out that the Commission has found that the revised capacity release rules will provide shippers with increased flexibility and the marketplace with numerous benefits, such as greater ability for entities to customize arrangements to meet unique customer needs. The pipelines' claims regarding implementation challenges do not outweigh the broad and important benefits of promptly implementing the revised capacity release rules as scheduled, marketers contended.

The Marketer Petitioners would not object to a limited waiver/extension that provides the pipelines with more time to achieve full compliance with all aspects of the Commission's order if the pipelines will provide the full benefits of the revised rules to their shippers no later than July 30. The marketers noted that while NiSource Gas Transmission and Storage requested a two-day waiver of implementation of the new rules, NiSource proposed expressly permitting shippers to enter into offers and bids under the new rules on July 30 for transactions to be effective August 1.

The Marketer Petitioners include: Shell Energy North America (US), L.P., ConocoPhillips Company, Chevron U.S.A. Inc., Constellation Energy Commodities Group, Inc., Tenaska Marketing Ventures, Merrill Lynch Commodities, Inc., Nexen Marketing U.S.A. Inc., UBS Energy LLC, and Citigroup Energy Inc.