

Energy Choice Matters

August 27, 2008

Michigan ALJ Favors Detroit Ed Calculation of PSCR

A Michigan ALJ recommended approval of a maximum monthly Power Supply Cost Recovery factor of 11.22 mills/kWh at Detroit Edison for 2008, based upon a total PSCR expense of \$1.46 billion in a proposal for decision (U-15417).

Detroit Ed had originally filed for a 9.23 mills/kWh PSCR, but revised it because the utility reported a \$43 million underrecovery of its 2007 PSCR revenues instead of the \$1 million underrecovery originally calculated. Detroit Ed blamed a 720 GWh decline in choice sales for the jump (Matters, 7/30/08).

The ALJ agreed with Detroit Ed's calculations and concluded that the proposed roll-in of the 2007 underrecovery into the 2008 PSCR factor followed Commission precedent, contrary to arguments from the Attorney General. Citing a prior order, the ALJ noted the roll-in methodology addresses the need for prompt and accurate price signals, provides for the financial stability of utilities by allowing a more timely recovery of PSCR undercollections, and lessens customer costs by reducing interest accruing on any underrecoveries.

The ALJ also determined that the lack of symmetry between Electric Choice reserve margin costs and revenues should be dealt with in Detroit Ed's current rate case (U-15244).

While the AG argued that Detroit Ed should treat revenues from the ancillary service of providing reserve margins to Alternative Energy Suppliers for Electric Choice customer load as PSCR revenue, Detroit Ed noted that PSCR customers currently experience a significant windfall from the

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Power Marketers Protest NYISO Deliverability Rules

New capacity deliverability requirements filed by the New York ISO and Transmission Owners discriminate against external resources and could raise capacity prices, power marketers who import capacity told FERC (ER04-449-017).

Under the provisions meant to enhance reliability by only counting capacity which is deliverable, virtually all existing external resources, as well as new internal resources, would have to pass new deliverability tests to qualify to sell Installed Capacity in the NYISO markets.

However, existing internal resources, and a few legacy external contracts, would be grandfathered in perpetuity and would not be subject to the deliverability tests.

Existing internal resources are grandfathered regardless of whether they actually are deliverable, and regardless of whether they are committed to sell into NYISO markets in the future, H.Q. Energy Services reported.

Such an arrangement discriminates against existing external resources, especially since new internal resources are given unwarranted priority rights to sell capacity over existing external resources, H.Q. claimed.

Any internal resource that is granted Capacity Resource Interconnection Service automatically takes priority over existing external resources, and new internal generation would displace existing levels of capacity imports in determining the deliverability of the imports solely by virtue of its interconnection request, H.Q. explained.

There is no obligation for a new resource requesting Capacity Resource Interconnection Service

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Progressive Energy Group Plans Warranty, Conservation Products in Addition to Commodity

Start-up natural gas marketer Progressive Energy Group's long-term goal is to offer customers energy, warranty and conservation products and services, it told the Illinois Commerce Commission in a supplement to its Alternative Gas Supplier application (08-0478, Matters, 8/13/08).

However, while PEG has registered names such as "The Protection Company," "The Conservation Company," "The Electric Company," and "The Gas Company" with the Illinois Secretary of State, PEG told the Commission that it is not currently selling any products or services in the state.

PEG also reported it will use marketer Vanguard Energy Services to meet all scheduling and facility requirements including scheduling changes, reserve implementation, curtailment orders and interruption plan implementation.

PEG is a start-up founded by two former Nicor Energy Services executives.

Texas Customer Wants More Clarity on Switching Schedules, Contract Transitions

Texas State Rep. John Zerwas forwarded to the PUCT suggestions from a constituent regarding the nature and disclosure of standard switches and fees associated with off-cycle switches. The comments were filed in Project 35768, which houses the PUCT's proposal to update customer disclosure rules (Matters, 8/14/08).

Zerwas' constituent wants REPs to provide an explanation of exactly when and how a switch can occur without the consumer incurring penalties and fees. In particular, REPs should explain how a consumer can determine when a standard switch occurs, what exactly an out-of-cycle switch is, and how a consumer can time a switch to transition smoothly from one REP to another.

The constituent recommended that REPs provide information to prospective customers regarding standard switch dates, fees for an out-of-cycle switch (or indication that such service is not available), and the ability to select

a standard switch date or otherwise have a transparent transition from one contract to another without additional fees or an out-of-cycle switch.

REPs should provide immediate feedback to applicants informing applicants of the anticipated date of their switch and any applicable fees, in addition to confirming the termination date of the new contract, the customer said. Customers should be able to compare the switch date with the termination date of any existing contract.

The constituent also suggested that REPs be required to list cycle switch timing and contract status for specific customers on PowerToChoose, so customers can determine when shopping on the website whether they are currently under contract, how long that contract lasts, and whether they would incur penalties for switching.

DPU Declines to Reconsider REC Billing Under Nstar Green

The Massachusetts DPU declined to reconsider its order regarding line-item REC billing on utility bills for competitive REC suppliers that was part of the Nstar Green case (07-64-B, Matters, 5/2/08).

The DPU had refused to implement line-item REC billing because of its prohibitive cost (\$910,000), and because competitive green products could be facilitated by directing Nstar to provide competitive REC suppliers with EDI functionality instead.

The Massachusetts Energy Consumers Alliance asked for reconsideration of the DPU's rejection of line-item REC billing, arguing that the costs were appropriate to further state goals for renewable energy and competition, while having minimal bill impacts.

But the DPU considered Mass Energy's motion merely a re-argument of its previous position, and thus the DPU concluded that Mass Energy failed to meet the conditions for reconsideration.

The DPU suggested that the REC billing alternative could be pursued separately in another case where it could be better adjudicated, perhaps in Nstar's filing due by Sept. 2 under Section 86 of the Green Communities Act, which requires electric

distribution companies to file a plan to provide competitive suppliers of renewable energy attributes with retail access to customers.

California PUC Issues Draft Guidance on RPS Filings

The California PUC issued a draft to explain the intended process and treatment of both routine and verified RPS compliance reports which must be filed by LSEs, in a ruling from President Michael Peevey (R. 08-08-009).

LSEs must file routine compliance reports and verified compliance reports.

The routine reports are mostly intended to be informational, and use self-reported RPS data from the LSE. The verified reports are filed by LSEs using RPS data verified by the California Energy Commission.

The routine reports are to be filed March 1 and August 1 annually, and normally would not compel Commission action, though the LSEs are to calculate any applicable penalties in the report. Still, the report would not normally be considered final before the report is first submitted using data verified by the CEC.

The verified reports are to be filed 30 days after the CEC adopts an RPS Procurement Verification Report. Each verified report must calculate the penalty related to a reported deficit, if any, and may also state any reasons that the penalty is asserted not to be due and payable at the reporting time, due to use of flexible compliance provisions, including deferrals or waivers.

Verified reports will typically prompt Commission action depending on their scope, ranging from a letter order for filings meeting RPS obligations to a full Commission proceeding and order for RPS deficiencies.

Both routine and verified compliance reports are to be served on the service list for Rulemaking 08-08-009 or its successor proceeding.

FERC Sets Hearings for ConEd-PJM TSAs

FERC set for hearing consideration of two executed transmission service agreements between PJM and Consolidated Edison, and a related Joint Operating Agreement between PJM and the New York ISO, because the 1,000-

MW TSAs and JOA Protocol may be unjust, unreasonable, and unduly discriminatory or preferential, or otherwise unlawful (ER08-858).

At issue are two TSAs entered into between ConEd and PSE&G in the 1970s, which ConEd has sought to roll-over as firm service.

PSE&G, however, protested the roll-over as an inappropriate attempt to perpetuate grandfathered terms and conditions that provide preferential and superior transmission service to ConEd.

Several IPPs also protested the TSAs, while the New York PSC and New York City consider the TSAs needed for reliability of the NYC load pocket.

Though FERC held the hearing in abeyance pending settlement negotiations, the presiding judge shall consider whether the 1970s TSAs represent firm service for purposes of roll-over under PJM's tariff, whether the new TSAs provide for the same level of firmness and service as the original TSAs, and whether roll-over of the 1970s TSAs will result in ConEd receiving unduly preferential service, or a violation of PJM's or NYISO's OATTs.

Briefly:

DPUC Staff Asks for Investigation of MXenergy

The DPUC Staff has requested to open a new docket (08-08-55) for an investigation of MXenergy. According to Staff's filing, "The Department has begun receiving complaints (21 to date) from MX customers that the Company has not honored terms of its contracts with customers (e.g., charging non-contract prices, changing prices prior to price lock expiration) and has not been responsive to customer inquiries and complaints."

FirstEnergy Solutions Announces Illinois License

While it will come as no surprise to readers of *Matters*, FirstEnergy Solutions yesterday announced it has been licensed as an ARES for the Ameren territories in Illinois. The ICC's order granting the license actually came back in April, which we exclusively covered (*Matters*, 4/14/08). FirstEnergy Solutions, which bills itself as the largest competitive electricity supplier in the MISO region, is licensed to sell to all customer

classes in the Ameren territories but is currently focusing on C&Is. It did not originally seek authority to sell in ComEd. Despite such news being anything but recent, the AP wire picked up the release, so kudos to FirstEnergy's PR department, since we rarely see any market entry releases covered by AP.

Stream Latest REP to Offer Expanded Deferral Plans

Stream Energy joined the ranks of ERCOT REPs voluntarily offering expanded payment extensions and deferred payment plans to decrease potential disconnections during the summer. Stream's plan applies to customers who are classified as elderly; ill and disabled; low income; elderly and low income; or in need of critical care. The program, open through Sept. 30, allows customers to enter into a three-month deferral plan when paying a minimum of 25% of the amount due.

BGE Requests to Update PSC on AMI, Pricing Pilots

Baltimore Gas and Electric requested time to update the Maryland PSC on its Advanced Metering Infrastructure and Smart Energy Pricing pilot programs following the Oct. 15, 2008 administrative meeting. BGE believes an overview and status report will benefit the Commission, Staff and Office of People's Counsel.

N.Y. PSC Sets DG Conference

The New York PSC scheduled technical conferences on distributed generation for Sept. 22 in Albany and Sept. 24 in New York City (08-E-1018). The conferences are to help stakeholders better understand how co-administration of the Department's Standard Interconnection Requirements (SIR), the utilities' standby delivery electric tariffs and natural gas for DG delivery gas tariffs, and recent revisions to the net metering statute in conjunction with hourly market (real-time and day-ahead) commodity service prices, are used to economically evaluate distributed generation options. Topics include Net Metering/Standby Rates/Buyback Tariffs, Interconnection/SIR, Natural Gas for DG Tariffs, and CHP Modeling/Sizing & Payback. Advanced registration is required.

Michigan PSC Launches Working Group on PAYS Efficiency Program

The Michigan PSC instituted a working group to implement a market-based system designed to provide energy efficient products that are purchased with no up-front payment and no customer debt obligation. Based on a \$50,000 grant from the National Governors Association's Clean Energy States Grants Program, the PSC intends to develop a statewide infrastructure to support a program modeled after the Pay as You Save (PAYS) system and to implement up to four pilot projects. Under PAYS, customers receiving efficiency measures or services pay a tariffed charge on their utility bill until all costs, including financing costs, are paid. In all cases, the energy cost savings from the products installed are guaranteed to exceed the charge. Such on-bill payment is meant to overcome market barriers that inhibit the purchase of energy efficient products. Interested stakeholders are to file notices of intent in Case No. U-15633 by Sept. 18.

MichCon GCR Approved

The Michigan PSC approved a partial settlement authorizing Michigan Consolidated Gas to implement a maximum base gas cost recovery factor of \$11.36/Mcf for 2008-2009.

FERC Auditing Black Hills Power

FERC's Division of Audits in the Office of Enforcement has commenced an audit of Black Hills Power, Inc. to determine whether and how Black Hills is complying with (1) the requirements contained within its Open Access Transmission Tariff (OATT), (2) the waiver granted Black Hills from the Standards of Conduct requirements at 18 C.F.R. Part 358 (2008), (3) the Codes of Conduct applicable during the audit period from July 1, 2006 to September 18, 2007, and (4) the Market-Based Rate Affiliate Restrictions applicable during audit period from September 18, 2007 to the present (PA08-38).

Colorado Reaffirms Wholesale Competition

EPSCA hailed a Colorado PUC decision to "reaffirm wholesale competition in Colorado," in a ruling on Xcel Energy's Electric Resource Plan. A written decision from the PUC is expected in mid-September, but the

Commission set the course for Xcel's plan during open meeting deliberations. Among other things, the PUC rejected Xcel's proposal to mandate that 58% of generation be owned by Xcel, exempt of any competitive bidding process. Instead, any self-built Xcel generation must compete with resources offered by competitive suppliers. Future resource needs are to be met through a competitive procurement process using an independent evaluator, and debt equivalency cannot be used by the utility in reviewing bids.

Wyoming-Colorado Line Attracts Wind Suppliers

GreenHunter Wind Company and Duke Energy Ohio won through an open season a combined 585 MW of the 850-MW Wyoming-Colorado Intertie, which is being built by Trans-Elect, the Western Area Power Administration, and the Wyoming Infrastructure Authority. Duke has a wind development pipeline of more than 5,000 MW. The line is expected to go into service in 2013.

DTE PSCR ... from 1

asymmetrical treatment of the expense and revenues associated with providing ancillary service for Electric Choice load. Detroit Edison cautioned that PSCR expenses would increase if it reconciled all costs and revenues related to providing Electric Choice operating reserves in the PSCR process.

The ALJ also agreed with Detroit Edison's decision not to hedge its projected spot market purchases at peak as suggested by the AG due to fears of very high purchased power costs. Detroit Ed had countered that the risk from spot purchases is small since Detroit Ed has a very minimal exposure to the MISO day-ahead market -- a projected 4,235 MWh from June 2008 through August 2008, or 0.027% of the total load during the same period.

The ALJ concurred that such small exposure did not warrant the costs of hedging.

N.Y. Deliverability ... from 1

to actually be a capacity supplier in New York, as the new resource has the option of selling some or all of its capacity to neighboring regions, H.Q. added.

The proposal is likely to increase capacity costs in New York, H.Q. argued.

Brookfield Energy Marketing explained that the proposal will likely reduce capacity imports in New York.

Capacity imports, Brookfield Energy Marketing pointed out, are often bid into the market as price takers, while the internal capacity that replaces the external resources may not be cheaper.

H.Q. recommended that the deliverability test for external resources should assume that existing levels of external deliverability - and the potential associated capacity imports - would continue.

NRG Energy and U.S. Power Generating Company protested another aspect of the compliance filing, cautioning FERC that the filing would greatly expand the deliverability exemption for certain generation projects.

Per a prior FERC order, pre-2007 projects were exempted from the deliverability standard if they began commercial operation within three years of the commercial operation date in a FERC approved Interconnection Agreement.

However, NYISO's compliance filing expands the exemption to include pre-2007 projects that did not yet have an IA, or had an IA but the IA did not specify a planned commercial operation date.

NRG and USPowerGen argued that expanding the exemption endangers reliability since capacity could be counted which is not actually deliverable. Greater exemptions would also misalign cost allocation by exempting projects from shouldering the costs of upgrades needed to access their capacity.