

Energy Choice Matters

August 28, 2008

Smitherman Suggests Rulemaking on Deferral Plans, Requiring Customers to Honor Commitments

The roll-out of voluntary summer deferred payment plans by soon-to-be six REPs in ERCOT, "is how a market should work," PUCT Chairman Barry Smitherman told his colleagues in a memo preceding today's open meeting.

Direct Energy, Gexa Energy, Reliant Energy, Stream Energy and TXU Energy have all publicly announced voluntary deferral plans, and Smitherman tipped that Green Mountain Energy is soon to announce one as well. Those REPs cover over 85% of low-income residential customers in the competitive retail areas of ERCOT, Smitherman reported.

The voluntary offerings show how competition should work with retailers differentiating themselves based upon products, service, and price, the Chairman noted. "If you are with a REP that is not presently offering disconnection protection for this summer and this is a service that is important to you, then I advise you to switch to one of the five (soon six) REPs that are offering the service," Smitherman said.

While several REPs have stepped up to offer additional protections to customers, any proposed mandated solution to the summer disconnection issue must not allow the deferred payment customer to avoid paying their bills, Smitherman said.

Smitherman proposed that the Commission open a rulemaking to address requiring that participants in deferral plans meet their obligations, as well as focusing on specific populations needing extra protection, rather than all residential customers generally, or even all elderly customers

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Iberdrola-Energy East Decision Punted due to N.Y. Commissioner Absences

With Commissioners Cheryl Buley and Robert Curry absent, the New York PSC did not vote on Iberdrola's acquisition of Energy East at its special meeting yesterday, but did further discuss concerns related to market power and other policy goals (Matters, 8/21/08).

The Commission is to consider the merger at a special meeting on Sept. 3.

Based on discussions at last week's open meeting, Staff clarified and refined potential conditions that could be placed on the merger to ease, but not eliminate, vertical market power concerns. Among the revised conditions would be that any wind built by Iberdrola in New York would have to be owned by an affiliate, and not one of the distribution companies. The distribution companies would also be prohibited from entering into bilateral contracts for any wind from an Iberdrola affiliate. NYSEG and Rochester Gas & Electric would have to undertake studies to identify congestion and load pockets, and evaluate transmission upgrades to move generation into such areas. Iberdrola would have to notify the Commission of construction or acquisition of any cogeneration or alternative energy generation projects up to 80 MW, filling a gap where a smaller project might not normally come before the PSC.

Commissioner Maureen Harris continues to have many concerns about market power, some of which she still feels cannot be addressed. Harris cautioned against "irreversible" damage to the RPS's competitive procurement model from allowing a T&D utility to own wind, warning that the utility could delay interconnection and thereby raise the cost of competing wind projects.

Harris announced she was committed to the market power policy statement and wholesale

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Calif. PUC Draft Would Let PG&E End Free Credit Card Payment Pilot

A draft PUC resolution would allow Pacific Gas and Electric to close its credit card pilot program, as the pilot demonstrated that the cost of a zero-fee credit card option is significantly higher than the average cost of all other payment options.

The pilot had allowed PG&E residential customers to pay their bills by credit card without being charged a transaction fee, which was absorbed by PG&E with an eye towards recovery from all ratepayers if the pilot was successful.

But PG&E's data demonstrated that the pilot program cost \$982,450, while savings, such as reduced check processing costs and eliminated paper billing, amounted to only \$376,335. The average cost to PG&E to accept payments from all payment options is approximately \$0.41 per transaction. The total cost of accepting a Visa credit card payment to PG&E is about \$1.01, and that total cost is scheduled to increase dramatically due to the increases in the Visa fee structure.

One of the main reasons for the higher pilot costs was that customers largely transitioned from lower cost payment options to the higher cost Visa option. PG&E's analysis found that that for customers that used a credit card more than five times during the pilot period, over 30% of them moved from a lower cost payment method like a mailed check.

Customers that utilized the credit card option typically used other payment options such as mailed check, electronic fund transfers, e-check, debit cards, and online electronic payment options, PG&E reported. Many such customers were already on electronic billing, meaning bill production savings were not realized through credit card payment.

The expected avoided costs from "shut-off for non-payment" customers were significantly less than initially expected, PG&E added. PG&E had expected that customers would use the credit card option to pay their bills to avoid shut off.

However, when reviewing "shut-off for non pay" statistics, PG&E found that during October 2007 only 1.15% of customers facing

disconnection who contacted PG&E paid their bill by using a credit card. In May 2008 that percentage dropped to 0.2%. Such ratios lead PG&E to believe that the credit card option is not a significant help to customers who struggle to pay their bills.

PG&E proposed reinstating a fee-based credit card program in the near future, and is to provide a separate filing to the Commission to implement such a program.

The draft resolution denied a protest from Visa, who had argued that PG&E failed to accurately document all savings from the pilot.

Briefly:

Buley Leaving N.Y. PSC

New York PSC Commissioner Cheryl Buley is resigning from her position effective Sept. 3. In a statement, Buley said she is relocating out of state after accepting a marriage proposal. Buley had been one of the strongest supporters of retail access on the Commission, and her resignation means ESCOs lose a key vote with several major issues before the Commission (among others, long-term planning and contracting, review of ESCO Referral Programs and other retail access programs, and revisions to the Uniform Business Practices).

PUCT Staff Tweaks RPS Opt-Out Proposal

The PUCT Staff has tweaked its proposal for publication relating to the ability of transmission-level voltage customers to opt-out of the state's RPS, reflecting a change in how REPs' allocation of the RPS is to be calculated to reflect any opt-outs (35628, Matters, 8/22/08). Instead of calculating a retail entity's allocation of the RPS and then subtracting the consumption of its industrial customers that have opted out for the compliance period, as initially proposed, Staff's revision would first reduce a retail entity's total retail energy sales to exclude the consumption of customers that opt-out prior to calculating the preliminary RPS allocation. The Staff also clarified that the changes would begin with the 2009 compliance year.

PUCT Sets POLR Workshop

PUCT Staff will conduct a workshop on the POLR rulemaking (35769) on Sept. 19.

Pepco Proposes SOS Timeline

Pepco, on behalf of the D.C. SOS Working Group, proposed to the District of Columbia PSC a 2008-09 SOS procurement timeline under which first tranche bids would be due Dec. 8, 2008, and second tranche bids would be due Jan. 5, 2009 (FC 1017). If needed, third tranche bids would be due Feb. 23. Retail prices would be posted Jan. 30 if only two tranches are conducted, or March 20 if a third tranche is conducted.

Vectren Proposes Bill Changes Consistent with Merchant Function Exit

Vectren has applied to PUCO to make several bill changes related to its transition to exit from the merchant function (08-1026-GA-UNC). Since starting Oct. 1 Vectren will no longer have a gas cost recovery mechanism, it applied to change the term to "Gas Cost Charge." Vectren also wants to remove references to "Vectren Choice Advantage" in describing the choice program since the moniker is no longer used.

DPU Opens Inquiry on Efficiency Guidelines

The Massachusetts DPU opened an investigation (08-50) to update its Energy Efficiency Guidelines to ensure they are consistent with the Green Communities Act. The Guidelines set rules for determining energy efficiency program cost-effectiveness, monitoring and evaluation, shareholder incentives, Department review of energy efficiency plans, and Department review of energy efficiency annual reports. Among other things, the DPU stated that while it believes that both the energy and capacity demand-reduction-induced price effects (DRIPE) should be used in energy efficiency cost-effectiveness evaluations, it proposed that Program Administrators include only the DRIPE benefits that accrue to Massachusetts electric customers in their cost-effectiveness evaluations, rather than using New England-wide benefits. The Green Communities Act expanded energy efficiency programs to be offered by distribution utilities and municipal aggregators.

NYISO to Develop "Swat Team" for Critical Issues

The New York ISO reported at its Management Committee meeting that it's to establish a Daily

Post Operations Process to identify and analyze changes in topology, power flows, and generation patterns internal to New York as well as adjacent control areas to better respond to complex issues such as the recent circuitous transmission scheduling around Lake Erie. The new unit is to compare findings with market outcomes and coordinate with Internal and External market monitoring units. NYISO is also to develop internal procedures to establish a "swat team" for critical issue response. The ISO is working with other RTOs to improve data sharing as well.

NYISO Submits Tariffs to Harmonize Generation, Load Treatment of Capacity

The New York ISO submitted to FERC tariff revisions to incorporate the methodology for determining the New York Control Area and Locality Minimum Unforced Capacity Requirements, and specify that the translation of Installed Capacity into Unforced Capacity for those determinations is to be done on the same basis, and using the same period for assessing generator forced outage performance, as is used for translating ICAP to UCAP for generators (EL05-17). The compliance filing stems from an order on remand in the KeySpan-Ravenswood case (Matters, 8/18/08), which found that NYISO had failed to file with the Commission the translation methodology used to determine LSEs' UCAP purchase requirements. The proposed new language specifies that the NYCA minimum UCAP requirement for a given Capability Period is to be determined by multiplying the NYCA minimum ICAP requirement by the ratio of the generators' UCAP to their ICAP for that Capability Period. Thus, the ICAP-to-UCAP translation will be done on the same basis for both loads and generators.

PUCT Staff Recommends Dismissing Pulse Energy Application

PUCT Staff recommended that the REP application of Pulse Energy be dismissed without prejudice because Pulse has yet to cure deficiencies on its application, including omitting its intended service area, and inconsistencies related to outsourcing of certain functions (35928, Matters, 7/29/08). Pulse would be led by current Clearview Electric CEO Francis McGovern.

PSE&G Lowers Proposed Gas Commodity Hike

PSE&G filed to lower its proposed gas commodity cost increase at the New Jersey BPU, citing recent decreases in the wholesale cost of natural gas (Matters, 6/2/08). For residential customers, PSE&G has cut its requested increase about one-third, to 14.3% from 20%.

DTE Energy Implementing Smart Meters

DTE Energy, for its Detroit Edison and Michigan Consolidated Gas utilities, is launching an Advanced Metering Infrastructure roll-out with projected full deployment starting in 2009 and occurring over six years, subject to testing and results from an initial 30,000-meter installation. DTE selected Itron for metering equipment. The \$350 million program is to provide more options for customers to manage their energy bills, DTE said. DTE also suggested that customers would be given a choice of billing cycles to better meet customers' cash flow requirements.

Liberty Revenue Growth Ranks Highly

Liberty Power, which reported revenues of \$193.4 million for 2007, was named the fourth-fastest growing Hispanic-owned business by *Hispanic Business*. The ranking tracks sales growth over four years, and Liberty had recorded about \$120 million in sales in 2006 and \$100 million in 2005. Liberty attributed the growth to expanded sales and marketing efforts, which have included increased use of ABC channels. Liberty also noted that it received 11 additional marketer licenses in 2007, although that impact will probably be felt more in 2008 due to the time needed to complete utility testing and ramp up sales efforts, plus the natural lag between closed deals and power flows.

Urgency Request Fails for PRR 776

The vote to grant Urgent status to PRR 776, Automatic MCPE Adjustment During Intervals of Non-Spinning Reserve Service Deployment, failed (Matters, 8/26/08). The PRR, proposed by Texas Industrial Energy Consumers, will be considered on a Normal timeline and is scheduled for consideration at the October 23rd ERCOT Protocol Revision Subcommittee (PRS) meeting.

Maryland PSC Grants BGE AMI Briefing Request

The Maryland PSC will permit Baltimore Gas & Electric to give a "brief" update to the Commission on the status of BGE's Advanced Metering Infrastructure and Smart Energy Pricing Pilot after the Oct. 15 administrative meeting (Matters, 8/27/08).

All Active REPs to Pass-Through Oncon Credit

Oncon yesterday began the first distributions of a \$72 million credit related to leveraged buyout of its parent. A \$12.58 credit, which is being passed through REPs, is available to any eligible residential consumer who was taking delivery service from the company at the end of December 2007 (Matters, 8/1/08). Oncon reported all active REPs in its territory that expect to have customers in September have signed an agreement to completely flow the credit to customers. C&I customers will also receive a credit based on their 2007 usage.

Constellation to Sell Upstream Gas Assets

Constellation Energy told investors yesterday it plans to sell its upstream gas assets, and sell or recapitalize its international coal and freight business, in moves meant to shore up liquidity. While continuing to evaluate strategic alternatives for its commodities business, it downplayed the potential for a partnership similar to the RBS-Sempra joint venture.

Michigan Power Agency Joins Plea for SECA Relief

Michigan South Central Power Agency joined stakeholders urging FERC to act on an two-year old initial decision regarding Seams Elimination Charge Adjustments (ER05-6 et. al., Matters, 8/12/08). MSCPA is among those who stand to recover a majority, if not all, of the amounts it has paid in SECA charges, it reported.

Texas Deferrals ... from 1

generally (some of whom are millionaires not needing payment assistance).

"While it is not the Commission's job to insure a REP's viability and profitability, it is also not right for us to foist obligations on a REP which will result in substantial losses," Smitherman

argued, pointing to the emergency disconnect moratorium of 2006 under which the REP community collectively wrote off millions of dollars in uncollectibles.

"This happened because many customers, who had been given a deferred payment plan, switched away to another REP without first paying off their bill to the REP who gave them credit," Smitherman pointed out. On average, customers who engaged in this practice in 2006 left their REP with an unpaid bill of about \$900, Smitherman reported.

Smitherman also questioned whether deferral plans can be considered "helping" the customer when many low-income and elderly customers, who availed themselves of the 2006 moratorium, accumulated large balances that came due in October through February which they found difficult if not impossible to pay.

For example (using numbers supplied to Smitherman by one of the REPs), if a low income elderly customer had bills in July, August, and September of \$265, \$258, and \$194, respectively, and chose to defer 100% of those bills, the new bills in October, November, December, January, and February, would be \$284, \$269, \$306, \$314, and \$282, respectively. In each month, beginning in October, the new bill is higher than the monthly bills the customer apparently couldn't pay back in the summer. In other words, on top of the normal bills due in the fall and winter, the customer also has to pay cumulatively \$717 deferred from the summer, Smitherman noted.

Smitherman also rebutted suggestions made since the last open meeting that critical care customers are not really protected from disconnection. PUC Subst. Rule 25.497 speaks directly to the additional requirements that REPs and TDUs must meet to address disconnection issues for critical care customers, and Smitherman added that market participants often go far beyond these rules, with some companies having additional, internal prerequisites that must be met before a customer is disconnected, while other companies go the extreme and will not disconnect critical care customers.

The Commission's July decision to set the LIDA discount based upon current POLR rates rather than upon the minimum POLR rate has resulted in the average discount per participant,

beginning in July of 2008, being almost double what it was in the summer of 2007, Smitherman reminded (Matters, 7/4/08).

"Contrary to some assertions, August, not September, is the hottest month of the year; September is not even normally the second hottest month of the year," Smitherman concluded. According to information supplied by ERCOT, over the last eight summers (2000 through 2007), September peak electricity demand (a good proxy for air conditioning usage, and therefore heat) was less than either August, July, or June, for four of the last eight summers. While September in Texas doesn't feel like Colorado, "it is fair to say that once we get through August, the summer is just about over," Smitherman said.

Iberdrola ... from 1 competition.

Chairman Garry Brown, however, noted that the market power policy statement contemplates that utility generation ownership may be appropriate when ratepayer benefits outweigh any costs.

But Harris countered that there are no direct ratepayer benefits in the deal, and worried about setting precedent. What happens if ConEd wants to put utility-owned photovoltaics on New York City rooftops, Harris asked.

Harris also pointed out that the Energy East utilities were the only two not to submit fast-track energy efficiency programs on the electric side, and wondered how allowing a T&D affiliate to own generation would compel the utilities to pursue energy efficiency.

Commissioner Patricia Acampora voiced concerns about the Attorney General's current investigation into two wind developers' alleged improper dealings to obtain land-use agreements, influence public officials and otherwise engage in alleged anticompetitive behavior. While First Wind and Noble Environmental Power were named in a press release from the AG, the AG, citing confidentiality, has not shared other information regarding its wind investigation with the PSC, which Acampora called "ridiculous," as it could have a bearing on consideration of wind issues in the Iberdrola case.