

Energy Choice Matters

September 2, 2008

Nicor Questions Progressive Energy Group's Qualifications

Nicor Gas has petitioned to intervene in the licensing case for start-up gas marketer Progressive Energy Group, arguing that PEG has not demonstrated that it has met various technical, financial and managerial requirements for licensing (08-0478, Matters, 8/27/08).

Nicor questioned PEG's reliance on Vanguard Energy Services, which is not a certified alternative gas supplier, to meet various technical and scheduling requirements. PEG has not produced an agreement or verified statement confirming its relationship with Vanguard, Nicor noted, contending that the qualifications of Vanguard personnel are, "open to question."

"PEG should not be allowed to satisfy the requirements of Section 19-110 by relying on the resources of a company that has no accountability under the Application as drafted," Nicor insisted.

An Experian report submitted by PEG merely reflects the history of PEG's owners but not the LLC itself, Nicor added, which is problematic because members of an LLC are not responsible for the LLC's debts.

"Also, it is unclear whether PEG has any material assets or is merely a shell company, as evidenced by the fact that the address of PEG is nothing more than a mailbox number in a UPS Store located in a strip mall," Nicor claimed.

"Nicor Gas, its customers, and the Commission all have a real interest in seeing that residential and small commercial customers are not exposed to significant financial risks," Nicor said.

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OCC Favors POR For Electric Suppliers, Suggests Issue Be Decided in Current Rulemaking

PUCO should address requiring electric distribution utilities to purchase the receivables of competitive suppliers in its current rulemaking on electric service standards (06-653-EL-ORD), the Ohio Consumers' Counsel and other consumer advocates recommended in reply comments.

Several marketers had urged the implementation of POR, currently used in the Ohio gas market and at Duke's electric utility, in their initial comments on the rules, which include proposals regarding partial payment orders and deposit requirements (Matters, 8/14/08).

OCC recommended that distribution companies be required to purchase receivables, "since they are in the best position to collect payments from customers." OCC agreed that POR would, "enable a more vibrant competitive market," and suggested that PUCO address POR in the current rulemaking, rather than deferring action until a separate proceeding.

However, absent POR, OCC and marketers were far apart on the appropriate deposit requirements applicable to residential customers.

Marketers, in their initial comments, had opposed uniform deposit requirements for competitive suppliers, noting that customer demand and preference would drive reasonable credit rules as customers would avoid marketers with burdensome requirements. But OCC opined that suppliers should, "tell that to a customer that cannot obtain a contract because of redlining by competitive suppliers." Uniform credit rules are appropriate, OCC argued, since energy services are essential and should be available to all on reasonable terms, even when competitively supplied.

Constellation NewEnergy, Direct Energy Services, and Integrys Energy Services ("Suppliers") countered OCC's suggestion that satisfactory credit standing with the electric utility should constitute

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Retailers Countering Final Utility Push on Michigan Competition Bill

Competitive retailers in Michigan are gearing up for a final push against legislation which would cap retail choice sales at 10% of utilities' load (Matters, 6/30/08).

The House and Senate have passed different versions of HB 5524 but both versions contain a 10% cap on competitive retail sales. The bills have been in conference since August, and rumblings around the Capitol had the bills remaining there until after November's election.

However, David Waymire of the Customer Choice Coalition reported that utilities are leaning "really hard" to get the bill passed this session, which reconvenes Sept. 9 after a recess.

One of the reasons, Waymire said, is because of recent rate increases at Consumers Energy which could prompt a greater backlash against stifling competition, and prevent the utilities' desired cap from moving forward if it isn't passed soon. Shopping activity is up at Consumers, Waymire reported, and if a 10% cap is passed, Waymire suggested it could be quickly hit by the end of the year, prompting customer outage from those prohibited from switching.

Although the House and Senate bills contain equal caps on retail choice and were originally held up due to differences over other issues, that doesn't mean the retail choice cap is a closed issue during conference, Waymire stressed.

The bill was voted on in both houses without any legislative analysis presented, and the Consumers increase has some lawmakers thinking twice about eliminating competition.

Northern Maine ISA Rebuts Claims of Dysfunctional Market

Characterizations of the Northern Maine market as dysfunctional and uncompetitive are "factually erroneous," the Northern Maine Independent System Administrator told FERC in responding to comments made in the incentives application for the Maine Power Connection filed by Central Maine Power and Maine Public Service (EL08-77, Matters, 8/12/08).

"Far from being an 'obvious failure,' the competitive situation in Northern Maine is quite robust," NMISA argued.

The "most significant" sign of a competitive wholesale market in Northern Maine is lower wholesale electricity prices than in ISO New England, the ISA pointed out.

"The principal symptom of a dysfunctional market is excessive prices," but Northern Maine wholesale prices and other important signs indicate that the market is performing as well as - or better than - a competitive market should, NMISA added. The ISA reported that clearing prices have ranged 2-31% lower than ISO New England over the past five years, with the lowest average SOS prices among the three Maine IOUs, although MPS prices were generally higher than those in CMP and Bangor-Hydro until 2005.

NMISA pointed out that FERC concluded that the Northern Maine market is competitive in its recent order on market-based rates for Boralex. The Commission found no evidence indicating that, merely because Northern Maine is electrically isolated from New England, there is an insufficient amount of transmission capability connecting Northern Maine to the rest of the Maritimes Balancing Authority.

Northern Maine has access to a "wide range" of competitive suppliers in New England, New Brunswick, Quebec, and Nova Scotia, NMISA maintained, pointing to Integrys Energy Services, which relies on generation in both New England and New Brunswick for its Northern Maine load (much of which is from SOS obligations). While the Maine PUC received only one bid in a 2006 RFP for MPS SOS, "[t]he fact that only one seller chose to bid in the request for proposals, if true, does not mean that other suppliers could not have bid as well and will not do so in response to future competitive opportunities," the ISA observed in quoting FERC.

NMISA took no position on the incentive rate treatment sought by MPS and CMP. However, the Connecticut DPUC, Massachusetts DPU, Nstar, Massachusetts Municipal Wholesale Electric Company, Eastern Maine Electric Cooperative, Kennebunk Light and Power District and Houlton Water Company all filed various protests.

The DPUC argued that the Maine Power Connection will not increase competition or

market efficiency as claimed since the project does not solve export constraints out of Maine to the rest of New England. The Aroostook Wind Energy project to be accessed by the line promises only speculative benefits, DPUC claimed, and its benefits could be reduced by cheaper alternative wind projects.

OCC Says PUCO Not Bound to Decide FirstEnergy MRO in 90 Days

The Ohio Consumers' Counsel urged PUCO to consolidate FirstEnergy's electric security plan and market rate offer filings, countering the utility's claim that PUCO must act on the MRO within 90 days of its filing (Matters, 8/1/08).

SB 221 includes numerous "start up" provisions that alter the otherwise standard statutory timeline for treatment of SSO filings, OCC argued.

For example, MRO applications are to detail their proposed compliance with Commission rules under new statutory sections, but such rules have not been finalized, OCC noted.

"Instead of providing that the irreversible movement to market-based rates would take place without Commission supervision," SB 221 delayed any process for approval of an MRO beyond 90 days under circumstances where the Commission's rules would not be available to supervise the movement to market rates, OCC contended, by prohibiting competitive bidding from starting until 150 days after the initial filing.

OCC argued combining the MRO and ESP cases would be efficient since each SSO offer must be compared with the other. OCC also urged that distribution issues be severed from the cases, since those issues have been litigated in other ongoing cases.

"No doubt sensing an opportunity to again present its distribution rate case issues - this time with opponents of its positions hampered by time and other constraints - FirstEnergy has declared a 'do-over' and [sic] asks the Commission to decide distribution issues on the Company's terms and without the extensive record developed that should guide the Commission's determinations," OCC claimed.

CL&P Says Manual Billing Delays to be Resolved by End of September

Although the number of customers requiring manual billing has been increasing, Connecticut Light & Power told the DPUC that the problem of manual billing delays will be resolved by the end of September.

CL&P attributed the rise of accounts requiring manual billing to new programs like Variable Peak Pricing and Distributed Generation, and reported that about 400 Rate 55 kVA accounts for July billing are also being manually billed.

While Constellation had initially reported some accounts not billed for 40 days or more, the issue has affected all suppliers with customers whose accounts are in CL&P's Large Power Billing (LPB) system.

As of August 19, the Constellation report of accounts unbilled 40 days or greater totaled 245 accounts, representing projected unbilled revenue of \$10.8 million, CL&P said. There are 464 unbilled accounts with other suppliers, including Clean Energy suppliers, CL&P reported. CL&P has received inquiries from Strategic Energy and Sempra Energy Solutions looking for usage for a small number of their accounts.

CL&P told the DPUC that manual billing delays will be resolved by the end of September. "The LPB department has cross trained both LPB personnel and other Customer Experience personnel so that if a delay arises from the meter data collection process or current system limitations the department will be able to respond," CL&P said.

Two NU EDCs to Temporarily Suspend Summary Billing

Connecticut Light & Power and Western Massachusetts Electric Company will temporarily suspend their Summary Billing program, which consolidates multiple accounts onto a single customer bill, for four months in preparation for an October upgrade to the new C2 customer information and billing system.

Beginning in September, customers will receive individual bills for each account throughout the month. Customers wishing to still

pay with a single check will need to determine the total amount and remit it along with each individual bill stub. Some 282 C&I customers at CL&P and 27 C&Is at WMECO will be impacted.

Northeast Utilities is waiving any late payment charges for summary billing customers making a single monthly payment during the transition period through February 2009. According to NU, customers should avoid using their old summary bill account number which may cause a delay in the payment being credited to customers' accounts. When the C2 system is installed in October, customers will receive new 11-digit account numbers.

Northeast Utilities plans to reinstate summary billing by January 2009.

Munis, Load Dismiss Generators' Concerns Over FCM De-List Proposal

"What the generators dress in the nomenclature of 'scarcity' pricing and the 'locational' value of generation resources is nothing more than an unadorned exercise of local market power," the Massachusetts Municipal Wholesale Electric Company and Connecticut Municipal Electric Energy Cooperative charged in an answer at FERC regarding generators' protests of the treatment of generating units seeking to temporarily de-list under ISO New England's Forward Capacity Market (ER08-1209).

ISO-NE's proposal would pay units prevented from temporarily de-listing their Net Risk-Adjusted Going Forward Cost, which generators have argued ignores the locational scarcity value of a resource (Matters, 8/4/08).

But generators' protest, "seeks to enlist the Commission in institutionalizing that local market power. The Commission should decline the invitation," the munis claimed.

Generators should not be able to "bootstrap" nodal pricing of capacity when the Forward Capacity Market already recognizes location in capacity pricing, simply on a zonal rather than a nodal basis, the munis added.

The Connecticut DPUC opposed NRG Energy's suggested Local Reconfiguration Auctions, which are intended as a market-based mechanism for price formation that would reflect the locational value of the system.

The "unavoidable problem" with the local

auctions is that the relevant market for a security-based area will be very small, so that the existing unit is likely to be the only unit capable of providing the security service, the DPUC argued.

"The resulting 'market outcome' will not be determined by fair competition, but will be dictated by one generator's ability to set the price in this highly concentrated 'market,'" DPUC contended.

But the FirstLight Companies and NRG countered that the results of the DPUC's own recent peaking RFP show that it is possible to get many proposals meeting specific needs in particular locations on extremely short timeframes, indicating that new entry would preclude market power concerns.

The munis dismissed generators' concerns about recovering costs under ISO-NE's proposal, noting that, "properly designed markets merely provide generators with a reasonable opportunity to recover their costs; they do not guarantee that any individual generator will do so."

"On the contrary, properly functioning markets should weed out inefficient resources with above-average costs. Moreover, the reasonable opportunity to recover long-run average costs is one that must be provided by the combination of markets through which energy, capacity, and ancillary services are sold. No single market must provide an opportunity to recover a resource's entire long-run average cost," the munis said.

Briefly:

Total Gas & Power North America Wins Duke PIPP RFP

Duke Energy Ohio requested PUCO authority to enter into a one-year agreement with Total Gas & Power North America to provide competitive natural gas to Percentage of Income Payment Plan (PIPP) customers (08-1040-GA-UNC). Total Gas & Power was the only bidder on the contract, after Duke sent out an RFP to 27 suppliers. Suppliers were asked to submit a Supplier Bid Credit which would be passed through to the PIPP customers as a discount to the Expected Gas Cost. Total Gas & Power bid a Supplier Bid Credit of \$0.0251/Dkt.

Duke Files to Adjust AAC Rider

Duke Energy Ohio filed with PUCO updates reflecting a \$141 million revenue requirement for its Annually Adjusted Component Rider, to reflect updated environmental compliance, Homeland Security and tax charges. Rider AAC is avoidable. Proposed class-specific AAC charges can be found in case 08-1025-EL-UNC.

Allegheny Power Efficiency Proposal Includes Smart Grid Pilot

Included in an array of Allegheny Power energy efficiency measures meant to achieve EmPower Maryland goals is an Automated Utility Interface Pilot Program, meant to demonstrate smart grid technology including demand response for 1,140 customers (9111). The pilot goes beyond advanced metering infrastructure, and the technology to be tested is intended to create an innovative, unified network that accommodates a multitude of technologies and features, achieving the next generation intelligent grid.

Nicor ... from 1

PEG should also demonstrate why possible plans to market under the trade names "The Gas Company" and "The Electric Company" do not run afoul of state consumer fraud and protection laws, Nicor argued.

PEG's application and supplement fall short of an ALJ's direction to "clearly explain" how PEG meets technical standards for licensing, including experience with NAESB rules and practices, Nicor claimed.

Nicor based its intervention upon the fact that its customers will be marketed to by PEG, and that it may be required to provide PEG with billing services.

Ohio Credit ... from 1

satisfactory credit with a marketer. Public utilities have bad debt cost components in their rates to recover the uncollectibles, Suppliers noted, but marketers lack such regulated recovery. "Therefore, the risks and credit standards of utilities and [competitive suppliers] are not the same and the [competitive supplier] should not be forced to accept a credit standing from the electric utility as satisfactory," Suppliers urged.

Suppliers also opposed OCC's proposal to require explicit customer consent before a marketer can disclose a customer's social security number for credit evaluations or as part of a contract assignment process. "As evidenced by the current problems with the sub-prime mortgages, it is very important for any vendor taking on a credit relationship to make sure that the counter party has suitable credit," Suppliers pointed out.

PUCO also lacks authority to implement suggestions that marketers be required to make arrangements for accepting cash payments at business offices and other appropriate locations within a service territory at no cost to the customer, Suppliers added.

OCC's recommendation to permit only month-to-month automatic contract renewals would, "eliminate the most widely used and popular contract renewal," Suppliers argued, calling it, "a Draconian cure for a problem that has yet to be identified."

Dayton Power and Light reported that it was "troubled" by comments from the OCC as well as OCC's, "attempt to blur the line between consumer advocate and regulator."

Suppliers opposed efforts by the OCC to be provided with the rate and cost information suppliers are using to market to residential consumers, as well as marketing materials and offers for OCC review. The Commission and Staff can appropriately deal with any issues relating to marketing materials, Suppliers noted, and OCC lacks authority to review marketing information until a case or investigation is initiated to which the OCC is a party.

Suppliers also objected to extending the time marketers would have to maintain copies of audio recordings of customer enrollments after the contract has terminated, and copies of individual customer contracts after the contract has terminated.

OCC favored NOPEC's suggestion for a Governmental Aggregation Generation Credit which would be used to counteract the negative competitive impact of generation deferrals in standard service rates. The credit, paid to and recovered from aggregation customers similar to any SSO credits, would ensure aggregation pools would be competing against a true avoidable generation cost, OCC explained.

OCC also supported suggestions that

suppliers be required to offer net-metering contracts.

Dayton Power and Light opposed OCC's proposal to require EDUs to obtain an actual meter reading when the customer initiates or terminates service with the EDU, if the meter has not been read within the preceding seven days, as a significant and unnecessary change from the current requirement of 60 days.

If you were out of the office on Sept. 1, be sure to check your inbox for our Sept. 1 issue