Energy Choice Matters

September 4, 2008

Duquesne Must Give Additional 60 Days Notice of PJM Exit to Market Participants

FERC conditionally accepted Duquesne Light's integration plan with the Midwest ISO, but required, among other things, that Duquesne provide market participants with firm, 60 days notice of its binding intent to leave PJM on a date certain (ER08-1235, Matters, 7/25/08).

Although the integration plan remains subject to ministerial loose-ends and related proceedings, such as portable capacity, the "broader contours" of Duquesne's application are ripe for Commission consideration, FERC ruled.

The Commission held that Duquesne's conditional exit notice, under which it reserved until Sept. 15 its final withdrawal decision, "fails to provide market participants sufficient firm notice of Duquesne's commitment." FERC required additional firm notice subject only to the receipt of final authorizations or approvals over which Duquesne will not be permitted to exercise its unilateral discretion.

Specifically, FERC required Duquesne to give at least 60 days notice of its firm commitment to withdraw and to submit the notice to the Commission.

Additional time is needed, FERC noted, so that PJM and the Midwest ISO can prepare and submit, for Commission review, a proposal addressing partial-year Auction Revenue Rights (ARRs) and Fixed Transmission Rights (FTRs).

In the event Duquesne seeks to join the Midwest ISO prior to the Midwest ISO's implementation

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Maine PUC Investigating Standard Offer Uncollectibles, Payment Order

The Maine PUC initiated an investigation (2008-351) into the allocation of partial payments between standard offer and transmission and distribution (T&D) service.

The investigation is to include a determination of the proper methodology for allocating partial payments under current rules, T&D utilities' compliance with those rules, and whether those rules should be changed.

Under the standard offer rules, a fixed "uncollectible adder" is incorporated into standard offer prices, representing an estimate of standard offer billed amounts that will become uncollectible and ultimately written off. The utility retains the adder to cover actual standard offer write-offs, with the standard offer provider having no uncollectible or bad debt risk.

The current payment order requires that past due T&D and standard offer charges receive first priority in partial payment, with the oldest charge paid first. When T&D charges and standard offer charges are of the same age, the T&D charges are paid first.

Past due competitive electricity provider charges are next paid, followed by current T&D charges, current standard offer charges, and current competitive electricity provider charges.

During a recent standard offer solicitation, Central Maine Power requested an increase in the standard offer uncollectible adder for the residential and small commercial class from 1.2% to 6.0%, citing significant increases in prices (Matters, 7/30/08). The PUC rejected the proposal.

However, during the PUC's review of the case, Commission staff reviewed historic arrearage and write-off data for CMP residential and small commercial accounts. The review indicated significant increases in standard offer arrearages, particularly for amounts past due by 90 days or more. T&D

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N.Y. PSC Conditionally Approves Iberdrola-Energy East Acquisition

The New York PSC conditionally approved Iberdrola's acquisition of Energy East and adopted a series of provisions meant to mitigate the exercise of vertical market power possible under the new combination (07-M-0906, Matters, 8/28/08).

Iberdrola is studying the conditions before deciding whether to consummate the deal. It is required to submit written acceptance of the conditions to the PSC.

Under the PSC's order, the deal includes $275 million in ratepayer benefits, an increase of $100 million (through $100 million in additional incremental wind investment) over prior commitments made by Iberdrola. That's lower than the $646 million originally sought by Staff.

If Iberdrola fails to invest the additional $100 million, which must represent new build and cannot be met through acquisitions of existing projects, within two years, it must spend $25 million in shareholder funds to invest in economic development projects in its service territories.

Iberdrola is to divest the utilities' fossil generation under the order, but will retain hydro units.

Commissioner Maureen Harris, despite expressing reservations, voted for the deal because of the real money the deal would mean for customers, but cautioned that provisions allowing competitive Iberdrola affiliates to own New York wind generation opens the gate for other utility renewable projects.

While Staff noted that the vertical market power policy statement has always held open that possibility, given ratepayer benefits, Harris noted that the decision will serve as precedent.

Chairman Garry Brown noted that it might "make sense" to look at the existing vertical market policy statement, especially when it comes to renewables. Such a review should occur in a generic case rather than setting precedent in individual cases, Brown said. Brown also noted that the PSC will take another look at the RPS this fall, including a specific examination of deliverability, and perhaps whether utilities should have a different role on renewables.

Harris vowed that she will "personally" be watching vertical power issues so that market power is not exercised. Harris also challenged Iberdrola to live up to its professed reputation of being a good corporate citizen, and that it meet various promises it made outside of the record regarding jobs and investment.

Commissioner Cheryl Buley, who resigned effective yesterday, did not participate in the 4-0 vote.

Among the conditions meant to curb market power are that any wind built by Iberdrola in New York would have to be owned by an affiliate, and not one of the distribution companies, and that the distribution companies would be prohibited from entering into bilateral contracts for any wind from an Iberdrola affiliate. NYSEG and Rochester Gas & Electric are 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.

PG&E Launches New Flexible Demand Response Option for Bundled Customers Only

Pacific Gas and Electric launched a new demand response program called PeakChoice, which is designed to let large businesses participate in demand response programs without significantly impacting business operations.

The program is only open to bundled non-residential customers, and allows business customers to choose between two options when a demand response event is called: PeakChoice Committed and PeakChoice Best Effort. PeakChoice Committed customers receive monthly incentive payments, while PeakChoice Best Effort participants earn incentives when curtailing load during declared events.

Under PeakChoice Committed, customers receive monthly incentives and additional incentives of $0.15/kWh for qualified reductions during an event. Penalties are only assessed when customers deliver less than 50% of committed load.

Under PeakChoice Best Effort, incentives are paid by the time of notice customers elect to receive:

Two-day notice:	$0.40/kWh
One-day notice:	$0.50/kWh
4.5 hour notice:	$0.60/kWh
30 minute notice:	$1.00/kWh

The PeakChoice season runs from May to October.

Aside from the notice they're willing to accept, customers can choose the amount of load they want to reduce (minimum of 10 kW), select between weekdays from 1 p.m. to 7 p.m. or 24 hours a day for dispatch, and nominate the total number of days they want to participate.

Customers with demand less than 200 kW will need to pay for the cost and installation of an interval meter.

OCC Asks for Rehearing of AEP Contract Limiting Participation in PJM Demand Response Market

The Ohio Consumers' Counsel asked for rehearing of PUCO's decision to permit special, discounted contracts between AEP's two Ohio electric distribution utilities and Solsil and Globe Metallurgical (08-884-EL-AEC et. al., Matters, 8/5/08).

OCC argued that the contracts' prohibition on Solsil and Globe's participation in PJM demand response markets, except with approval from AEP, violates the filed rate doctrine and encroaches upon FERC jurisdiction.

PJM's FERC-approved tariff, OCC noted, holds that demand response programs are to be open to all customers. As a FERC-approved rate, it cannot be superseded by PUCO, OCC said.

OCC also opposed the provision that AEP customers are to pay for 100% of the discount, rather than shareholders bearing 50% of the costs, which has been PUCO policy. Without exposure to any cost-risk, "AEP has no incentive to negotiate a fair rate," OCC cautioned.

"Without exposure to a cost-risk AEP has an incentive to give whatever discount is necessary to get the deal done and retain the customers' load," OCC added.

Notes from Lehman Brothers Conference

AEP CEO Michael Morris said that FERC Commissioner Suedeen Kelly, "clearly sees herself as a potential chair of the Commission should we have a Democratic administration," during remarks at the Lehman Brothers CEO Energy/Power Conference.

Morris noted Kelly's public remarks regarding the need for an extra-high voltage "interstate highway" transmission grid bode well for AEP's 765 kV business model.

In other presentations, Constellation Energy CFO John Collins reiterated the conglomerate's pursuit of strategic partnerships for its commodities business but gave no further updates.

An analyst questioned whether there were any restrictions on EDF, which is a partner with Constellation in UniStar, acquiring Constellation. Collins noted that while recent Maryland legislation relaxed the amount to which an investor could invest in a utility parent company without PSC approval, up to 20%, any acquisition would still require state and federal approval.

DTE Energy CFO David Meador reported Detroit Edison would file an application for a third unit at the Fermi nuclear plant in September, though no decision to build has been made. Meador also expressed hope legislation capping retail choice at 10% of load would pass in September.

PPL and FirstEnergy presentations contained no fresh news regarding competitive ventures.

Briefly:

ConsumerPowerline Buys DemandDirect for Greater New England Presence

ConsumerPowerline has acquired demand response provider DemandDirect, which has focused on serving C&I and institutional customers n New England. The deal allows ConsumerPowerline to strengthen its New England presence and leverage DemandDirect's sales and distribution partnerships, and New England clientele. DemandDirect also provides distributed generation in addition to demand response technology and programs. The two businesses previously had a strategic partnership.

Broker EGP Seek Md. Gas License

EGP Energy Solutions, doing business as Atlantic Energy Resources, applied for a natural gas brokering license in Maryland. EGP, which recently won an electricity broker license (Matters, 8/25/08), would broker C&Is at Baltimore Gas and Electric, Washington Gas Light and Columbia Gas. EGP was founded by two former NCG Energy Solutions managers, Kenneth Abner and Patrick Hall.

Md. Staff Pushes for WGL Asset Management Review

Time constraints and limitations imposed by the annual Purchased Gas Cost review warrant examining Washington Gas Light's asset management practices in a separate evidentiary process, Maryland PSC Staff argued in replying to WGL's comments that asset management issues belong in the PGC case (Matters, 8/26/08). Staff has asked for an investigation of WGL asset management since WGL has taken the duties in-house.

Exelon Files COL for Texas Nuclear Unit

Exelon Generation submitted a Combined Construction and Operating License (COL) application to Nuclear Regulatory Commission (NRC) seeking authorization to build and operate a new dual-unit, 3,000-MW nuclear generating facility in Victoria County, Texas. The application is the 12th to be submitted to the NRC by a U.S. nuclear operating company in the past 14 months, Exelon said. Exelon has not made a final decision to build the plant, which is dependent on market conditions and various federal policies.

FERC OKs ISO-NE Changes Meant to Prevent Gaming of Imports/Exports

FERC accepted changes to ISO New England Market Rule 1, previously approved on an emergency basis, that are meant to correct an incentive to manipulate the scheduling of imports and exports in the Day-Ahead Market (ER08-61-001). Specifically, ISO-NE had recognized that its rules allow market participants to simultaneously schedule offsetting imports and exports at the same external node, deliberately resulting in no net sales or purchases, for the sole purpose of receiving a Net Commitment Period Compensation (NCPC) payment. The revisions clarify that congestion is priced in external transactions to the extent that the congestion arises from transmission constraints. However, since a binding nodal constraint would not directly affect the congestion component of an LMP at an external node, congestion is not priced in external transactions to the extent that the congestion arises from nodal constraints.

Midwest TDUs Ask for Earlier Input on Local MISO Grid Planning

The Midwest TDUs protested a compliance filing from the Midwest ISO regarding transmission planning under Order 890, claiming MISO's modifications still do not meet FERC directives that stakeholders be given continuous opportunities to be involved in local transmission planning (OA08-53-001). TDUs argued that MISO's plan only involves stakeholders after Transmission Owner plans are drafted, contrary to the early and continuous participation required. MISO also does not provide for stakeholders to comment on TOs' development of planning criteria, TDUs claimed.

RMS Seeking New Vice Chair

ERCOT's Retail Market Subcommittee will be holding a special election during the Sept. 10 meeting to fill the Vice Chair position.

Deregulation Candidates Lose ACC Primary

A trio of candidates favoring greater “deregulation” of the Arizona electricity industry failed to advance from Tuesday’s Arizona Corporation Commission primary. Republicans Rick Fowlkes, Joseph Hobbs and Keith Swapp, running as a ticket also espousing performance based ratemaking and opposing renewable mandates, failed to finish among the top three to move to the general election.

Duquesne ... *from 1*

of its Ancillary Services Market tariff, Duquesne will also be required to submit a balancing proposal applicable to the Duquesne zone, FERC ruled.

FERC agreed with protests and found that the integration plan, "fails to address, in sufficient particularity, market participants' existing and interim period rights to hedge costs attributable to transmission congestion, including their costs relating to their Auction Revenue Rights (ARRs) and seasonal Fixed Transmission Rights (FTRs)."

The Commission directed PJM and MISO to address such transmission rights issues. To the extent the RTOs are unable to mitigate unreasonable impacts associated with partial-year ARRs and FTRs, "Duquesne can and should be required to indemnify affected customers," FERC ruled. But otherwise, FERC disagreed with protests that Duquesne should generally hold market participants harmless for its exit from PJM.

The Midwest ISO and PJM are to make a filing, at least 60 days prior to Duquesne’s withdrawal from PJM, describing in greater particularity how market participants' ARR- and FTR-related rights and obligations, including related flowgate capacity allocations between the two RTOs, will be treated for the partial-year period after Duquesne's withdrawal. The RTOs must also explain how their proposal will result in just and reasonable treatment of ARRs and FTRs for each partial-year period before and after Duquesne's withdrawal, and propose mitigation measures as necessary to ensure that the replacement arrangements related to ARRs and FTRs are just and reasonable.

FERC further directed the Midwest ISO and PJM address: (i) actual flows along the PJM/Midwest ISO interface for both RTOs; (ii) the impact of Duquesne's integration on FTR funding in each RTO; and (iii) capacity portability impacts on ARRs/FTRs.

The Commission ruled that the Duquesne zone will not be subject to PJM's future-period, annually-updated Regional Transmission Expansion Planning allocations upon Duquesne's withdrawal from PJM. However, project costs that have been allocated to the Duquesne zone, i.e., those established and made binding on the Duquesne zone pursuant to PJM's current-year RTEP cost allocations, will continue to apply to the Duquesne zone and may be collected by PJM through the current calendar year, FERC determined.

FERC reasoned that the tariff language in the PJM OATT at schedule 12 holds that RTEP costs are to shared on an annual load-ratio share basis using the applicable zonal loads at the time of each Zone's annual peak load from the previous 12-month period.

"As such, a new transmission owner joining PJM would become subject to these charges, because it would be a zone in PJM with a zonal annual peak load, regardless of when the projects were approved and regardless of who these projects may have previously benefitted [sic]. And a departing transmission owner leaving PJM would, pursuant to this language, no longer be subject to these charges; it would not have a zonal annual peak load as it would no longer be a zone in PJM," the Commission explained.

"There is no provision under the schedule 12 formula, permitting PJM to supplement this required calculation with load data from a non-existent zone, i.e., by adding back in the now non-existent Duquesne zone. Specifically, given the language of the tariff, PJM is not permitted to allocate future-period project costs to a former transmission owner based on the fictional assumption that this former transmission owner's zone can or should remain a part of PJM for future-year schedule 12 purposes," FERC held.

The Commission also rejected intervenors' argument that Duquesne should be held liable for the costs associated with PJM's new control center.

FERC's order did not address issues relating to Duquesne zone resource adequacy obligations since those issues are being considered under the capacity portability and capacity payment filings.

The Commission rejected rehearing of its January 17 exit order, including dismissing rehearing requests regarding its treatment of RPM obligations upon Duquesne's exit.

Maine Uncollectibles *... from 1*

arrearages had not increased by nearly the same amount. In addition, between 2005 and 2007, write-offs attributed to small class standard offer service doubled, increasing from $3.5 million to $7.0 million.

Further investigation revealed that the increases may have been driven by the treatment of partial payments and the fact that

CMP's billing system is limited to four "vintage buckets" for its receivables: current; 30 day; 60 day; and 90 day. That limitation treats all amounts past due by 90 or more days as if they were the same vintage for purposes of partial payment allocations, regardless of whether the amount was past due by 90 days, 120 days, 150 days, and so on. The result is that T&D amounts in the 90 day vintage bucket become first in line for all partial payments, even ahead of older standard offer balances which should by rule be paid first.

As part of the new investigation, the PUC directed the state's IOUs to provide cost and time estimates of any billing system upgrades necessary to accomplish the following:

• Allocate partial payments to the oldest balance first with no limit on the number of vintage buckets;

• Allocate partial payments to the oldest balance first with a sufficiently large, but not unlimited, number of vintage buckets; and

• Retain the existing vintage buckets, and for amounts in a given vintage bucket, allocate on a pro rata basis between standard offer and utility service.

Utilities are to also provide their position and arguments regarding a partial payment ratemaking approach whereby the utilities recover standard offer uncollectible amounts in the same manner as utility uncollectible amounts (through rate cap mechanisms or traditional regulation), assuming appropriate rate modifications to take into account such a change.