Energy Choice Matters
September 15, 2008

Several Generators Favor Long-Term PPAs for Md. Reliability Needs

Utilities urged a cautious approach on RFPs meant to fill potential reliability gaps in Maryland, while a few generators urged the PSC to conduct solicitations for long-term PPAs for energy in addition to short-term capacity needs (9149, Matters, 9/12/08).

Short-term reliability concerns would be best addressed through incremental capacity auctions conducted by PJM, Baltimore Gas and Electric argued. BGE cautioned that, even if certain transmission lines are not completed by 2011, Maryland-built capacity would not guarantee that Maryland would be spared from reliability problems, due to the regional nature of PJM's grid, and the fact that overall the MAAC zone would still be short on capacity.

"If Maryland were to secure additional resources through its own RFP process rather than the RPM auctions, which would commit additional resources throughout the entire Eastern and Southwest MAAC region, Maryland consumers will pay roughly 4 times the amount they would have paid through RPM assuming both procurement processes result in comparable pricing," BGE said.

Pepco and Delmarva urged the PSC to avoid long-term commitment for short-term needs, suggesting, at a maximum, any contracts be five years in length. The Pepco utilities urged a focus on utility efficiency efforts to meet any capacity gap, and also suggested that they could develop 50-100 MW of utility-owned, "distributed" quick-start turbines located at key substations, plus 5-10 MW of utility-owned solar. Any contracts made through an RFP should provide an option for utility, ratebased

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Revised DPUC Draft Would Not Require Seasonal Prices at UI

United Illuminating would not have to implement, as previously proposed, seasonal standard service generation rates under a second draft decision issued by the Connecticut DPUC (05-06-04RE04, Matters, 5/12/08).

The Department's original draft had proposed implementing summer standard service generation service charges applicable in June through September, based on the need to lower peak summer consumption and the difference between the cost to procure generation in the summer and UI's GSCs.

However, in exceptions, UI reported that seasonal rates would disrupt and constrain its procurement schedule (Matters, 5/30/08). UI noted that power bought for the July through December period would have to be bought in February to accommodate summer seasonal rates and allow time for the Department to approve the results and for rates to be made sufficiently available in advance for competitive suppliers.

In the revised draft, the DPUC agreed, stating its concern over requiring UI to amend its procurement process.

The updated draft also takes into consideration other backoffice limitations UI raised with regards to the Department's original draft. For example, a provision requiring UI to list on customer bills their banked kWh under new net metering rules would not be imposed until UI upgrades its billing system.

UI would only have to offer variable peak pricing to last resort service customers starting Jan. 1, 2009, instead of all customers as originally proposed. UI had reported that until billing upgrades are complete, it would have to manually bill VPP customers, and extending the option to all customers would be too burdensome. UI would be required to make VPP available on a voluntary basis for all customers effective July 1, 2010.

Calif. PUC Suggests Freely Allocating Most GHG Allowances Initially, Transitioning to Auction

The majority of greenhouse gas emission allowances would initially be freely allocated, with the remainder auctioned off, under draft recommendations from the California PUC and California Energy Commission (R. 06-04-009). However, the ratio would reversed over five years.

The suggestions, building upon previous recommendations for a cap-and-trade system, will inform the Air Resources Board which is ultimately responsible for implementing AB 32.

Beginning in 2012, 20% of the emission allowances allocated to the electricity sector should be auctioned, the PUC and CEC said, with 80% distributed administratively for free to electricity deliverers. The percentage auctioned would increase by 20% each year, so that by 2016, 100% would be auctioned.

The energy agencies recommended that ARB assign allowances (or allowance value) to the electricity sector at the beginning of the cap-and-trade program in 2012 based on the sector's proportion of actual historical emissions in California (including emissions attributed to electricity imports) during the chosen baseline years. In subsequent years, allowance allocations to each sector should be reduced by equal percentages during each year until 2020, the PUC and CEC said.

For the emission allowances distributed to electricity deliverers, the number of allowances given to individual deliverers should be determined using a fuel-differentiated, output-based allocation with distributions limited to deliveries from emitting sources. In determining the number of allowances for each deliverer, its output would be weighted based on the fuel source (such as coal or natural gas) of the electricity delivered, the agencies proposed.

ARB may wish to retain a small portion of electricity sector emission allowances to fund statewide electricity programs consistent with AB 32, CEC and the PUC added.

Aside from that exception, all of the electricity sector allowances that are auctioned should be given to the retail providers of electricity, on behalf of their customers. The retail providers should be required to sell the allowances in a centralized auction, to ensure open and equal access to allowances by all deliverers who require them, the agencies recommended.

The distribution of allowances to individual retail providers for subsequent auctioning should initially be in proportion to the historical emissions of the retail providers' portfolios, transitioning to a 100% sales basis by 2020. Allocating allowances to retail providers based on historical emissions would accommodate carbon-intensive retail providers that may face relatively high compliance costs, the agencies noted, while a sales-based distribution would provide long-term incentives for retail providers to reduce their reliance on high-emitting generation sources.

All auction revenues should be used for purposes related to AB 32, and all revenue from the auction of allowances allocated to the electricity sector should be used for the benefit of the electricity sector, including the support of investments in renewables, energy efficiency, new energy technology, infrastructure, customer bill relief (possibly through rebates), and other similar programs, the agencies said.

To increase flexibility and reduce compliance costs, the PUC and CEC recommended that three-year compliance periods under a cap-and-trade system be established to allow emitting entities time to implement emission reducing measures. Unlimited banking of GHG emissions allowances and offsets should be allowed.

The agencies encouraged ARB to allow unlimited participation in the cap-and-trade system, with adequate safeguards to prevent market manipulation and anticompetitive behavior. Some stakeholders had objected to participation by financial institutions and traders without GHG obligations, concerned speculation would drive up costs.

To ensure environmental integrity of the system, the agencies proposed that no safety valves or price triggers - such as increasing the number of allowances automatically when a set price is reached - should be offered.

The PUC and CEC support bilateral linkage of any California cap-and-trade program with other states in the Western Climate Initiative to create a multi-sector, regional cap-and-trade market.

Mich. PSC Staff Sees Inconsistent Arguments by Universal

Universal Gas and Electric inconsistently defines when customers enter into an agreement with the alternative gas supplier, the Michigan PSC Staff argued in a reply to Universal's motion to dismiss Staff's complaint (U-15577, Matters, 9/5/08).

Among the issues in the dispute is Staff's allegation that Universal failed to follow tariff provisions requiring customers to receive a switch notification letter within seven days of entering into an agreement with an AGS. Universal has argued that the seven days does not start upon the customer signing an application with Universal, because the enrollment is conditional upon the customer's eligibility for the choice program and is therefore conditional upon the LDC's acceptance of the enrollment.

However, Staff notes that elsewhere, Universal argues that the 30-day cancellation period for new contracts starts upon the customer's signature on an application, "even though its position is that no contract has been entered into yet and that a 7-day confirmation letter is not due."

Under Universal's interpretation of the tariff, the cancellation period could expire before the customer is actually advised that he has entered a contract, Staff reasoned.

Staff argued that the purpose of the seven-day confirmation letter is to advise customers they have entered into an agreement to have their gas supplied not by a traditional gas utility but rather by an AGS.

"To delay sending this letter until after the 30-day cancellation period has run out means that before a customer receives confirmation regarding the contract, the customer's time period for canceling the contract without penalty has already expired. This is certainly not the intent or clear language of the tariff," Staff insisted.

Staff noted that while Universal claims the signed customer application is conditional until accepted by the LDC, it is not conditional from the customer's perspective.

"In signing the agreement, the customer has unconditionally agreed to accept service from UGE and a binding contract exists at that time," Staff said.

Staff also insisted that Universal cannot compel customers to sign away their protections in the choice tariffs.

Universal has argued that provisions in its contracts allow it to re-enroll customers who switch providers and do not pay a termination fee to cancel the contract.

Staff noted the language Universal relies upon for re-enrollment reads in part, "In connection with the gas supply service under this Contract, Universal may take any action or sign any document as if you had taken the action or signed the document." Staff claims that such language would render the contract meaningless if applied broadly.

"[I]f UGE is seriously arguing this provision allows UGE, in effect, to unilaterally change any terms of the contract including price, penalties, and length of agreement, then it is an unconscionable provision under contract law and certainly in violation of the tariffs," Staff argued.

"The customer cannot contract away the protection adopted by the Commission in the tariffs for the customer choice program," Staff contended, noting the tariff holds that the customer's selection shall remain in effect until the company receives an enrollment for that customer from another supplier.

"Staff testimony sets forth hundreds of instances where MichCon has received an enrollment for that customer from another supplier only to have UGE unilaterally 're-enroll' that customer. This re-enrollment fiction is both incredible and unconscionable. These customers have not asked to be re-enrolled with UGE and would be unaware that they have been switched to a new supplier because of this default mechanism conjured up by UGE. UGE does not straightforwardly advise MichCon or the customer that it cannot be switched to another supplier because it has not paid the termination fee, UGE simply finds it easier to surreptitiously switch the customer back to its supply against the customer's will and without notice," Staff said.

Dynegy Sees Centralized Capacity Market Answering Many Capacity Product Questions

The value of near-term implementation of temporary, piecemeal solutions to several issues surrounding a standard capacity product in California should be questioned given that a centralized capacity market would answer many of the concerns, Dynegy said in response to a California ISO white paper on a standard capacity product (Matters, 9/1/08).

CAISO had asked what systems or infrastructure are needed or desirable to facilitate trading, track ownership, and enable registration of standard capacity product tags. A centralized capacity market run by the CAISO, through which all standard capacity is cleared, would provide all of those items, Dynegy noted.

However, most stakeholders urged that a standard capacity product be designed under the state's current resource adequacy construct, with any changes appropriately left to ongoing PUC proceedings. Most stakeholders agreed that the focus of the CAISO process should be on setting availability requirements and penalties.

The Alliance for Retail Energy Markets is concerned that some of the issues identified in discussion of the CAISO's white paper seem to imply that the standard capacity product is a CAISO-imposed requirement on Scheduling Coordinators. AReM reminded that the standard capacity product is a product that the market develops commercially, as a result of the CAISO clarifying supplier obligations in its tariff.

"Accordingly, the CAISO is not developing the product, but facilitating the development of the product by the market. This distinction is helpful to keep in mind when discussing the scope of the CAISO's [standard capacity product] stakeholder process," AReM said.

Briefly:

National Grid Says GreenUp Program Provides Retail Access

National Grid's GreenUp program, offered through is Massachusetts distribution companies, meets the state's requirements for utilities to offer retail access for competitive providers of renewable products, Grid told the DPU in a letter. Grid reported that the program, instituted in 2003, has 6,402 customers enrolled with three participating suppliers: Community Energy, Sterling Planet and Mass Energy. GreenUp does not require customers to switch away from basic service; green charges are added to their default service bill. The program is open to any licensed broker, Grid noted.

BGE Withdraws Seasonal Price Shaping Proposal

Baltimore Gas and Electric withdrew its proposal for a seasonal price-shaping mechanism for SOS pricing submitted as part of the Procurement Improvement Plan docket, with the intent to refile the plan in a more appropriate proceeding or forum (Matters, 8/18/08). The Commission had questioned whether the proposal was within the scope of the SOS PIP proceeding. The Office of People's Counsel has opposed the plan, but Staff, retailers and wholesale marketers favor the proposal which would seasonally adjust SOS prices in a revenue neutral manner. The PSC accepted consensus recommendations from the PIP working group, set a schedule for the next round of SOS RFPs, and also approved Allegheny Power's interim bid plan for its residential SOS procurement (Matters, 7/29/08).

FERC Rejects NYISO Proposal to Change Interconnection Scoping Meeting Deposit

FERC rejected a proposal from the New York ISO to convert a current $10,000 deposit for an initial scoping meeting between generation developers and transmission owners regarding interconnection into a non-refundable fee (ER08-1272, Matters, 8/6/08). The Commission found the proposal, opposed by the Independent Power Producers of New York, to conflict with Order No. 2003. FERC stated that the NYISO did not provide sufficient reason for the proposed variance from Order 2003 and concluded there was no basis in the record to approve the change as just and reasonable. "We do not want to inhibit developers with potential projects from bringing them into the interconnection queue, and we are not convinced that NYISO's proposed variance, which is in direct conflict with Order No 2003, would not have this result," FERC said

Nearly 2 Million Without Power in ERCOT

Some 1.8 million customers in ERCOT remain without power in the Houston and Galveston areas due to Hurricane Ike, including about 1.72 million CenterPoint customers and 85,000 Texas-New Mexico Power customers. Full restoration could take more than four weeks at CenterPoint and more than two weeks at TNMP. Field operations such as Disconnect for Non-Pay, meter reading, and Move-ins have been suspended during restoration efforts. According to ERCOT, about 3,000 MW of generation is not available as of midday Sunday, primarily due to absence of transmission, representing 13 generating plants (35 units total). Generation capacity is not an issue because of the significant load loss, ERCOT said. ERCOT reported 114 high-voltage transmission lines remain out of service, including six 345-kV lines. Preliminary reports from transmission/distribution providers indicate most of the transmission outages are due to debris on the lines rather than significant structural damage.

Lehman Filing for Bankruptcy

Lehman Brothers Holdings announced late Sunday that it intends to file a petition under Chapter 11 of the U.S. Bankruptcy Code with the United States Bankruptcy Court for the Southern District of New York today. The filing will cover the holding company and won't include any of its subsidiaries.

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ownership of the asset at the end of the contract, the Pepco utilities suggested.

The Office of People's Counsel shared BGE's concern that Maryland's action to solve its share of PJM reliability problems might not guarantee that it will escape rolling blackouts, and suggested that if the Commission pursues a Gap RFP, it should ensure that PJM's procedures would honor the fact that Maryland had acquired additional capacity to fill its portion of the MAAC capacity deficiency by avoiding emergency procedures in Maryland to resolve a MAAC related operational deficiency.

OPC also recommended coordinating the evaluation of the Gap RFP responses with the review of SOS procurement portfolios as well as energy efficiency goals to attain other state policies such as price stability.

Utility ownership should also be explored, OPC suggested, with utilities required to submit proposals in response to the RFP. The gap RFPs should not preclude suppliers from offering proposals that include other products besides capacity, or extend beyond the minimum time period sought, OPC added.

Products purchased through the RFP, whether capacity, energy, ancillary services, or environmental attributes, should be sold by the utilities back into the market, OPC said. The resulting revenue would be set off against the prices paid for those products under the contracts and the resulting credit or charge would be passed on to customers on a nonbypassable basis.

BGE also urged that any resources procured through an RFP be recovered through a nonbypassable distribution surcharge applied to all load, since resources would be procured to address reliability and all customers would benefit.

NRG Energy urged the PSC to establish a long-term "state resource assessment process" to identify what generation resources are needed. The Commission should require LSEs to enter into long-term contracts with successful bidders from state-run competitive RFPs in order to facilitate the financing necessary to attract the widest number of new generation sources, NRG said. The PSC should require LSEs to purchase the output of any new Combined Heat and Power facility at the market price for energy determined during the RFP process, NRG added.

LS Power and CPV Maryland also favored proposals for long-term contracting, and argued that the PSC should not limit its RFP to peaking resources. The state's reliability problems may last longer than just one to two years, CPV said, and a peakers-only RFP would crowd out long-term solutions and delay market signals for new baseload capacity.

However, the PJM Power Providers Group (P3) told the PSC that gap RFPs should be a tool of last resort, and should be limited to the 2011-12 delivery year. PPL EnergyPlus also urged for a narrow approach on the time horizon and size of any RFP.

Constellation Energy noted that while PJM has forecast a 3,000 MW shortfall regionally, some 3,320 MW of capacity either did not clear

RPM or did not bid into RPM. While 790 MW of that total has applied for retirement, it's not conclusive that a gap RFP is needed and that any gap could not be met through uprates or other solutions, Constellation said. The Retail Energy Supply Association argued that even if transmission projects are delayed, additional incentives for energy efficiency and demand response, or other shorter lead-time transmission projects, may provide more cost-effective alternatives to mitigating the reliability need than contracting for new generation.