Energy Choice Matters
October 6, 2008

REPs Oppose RPS Opt-Out Rule that Would Dictate Competitive Pricing

Proposed PUCT rules dictating that transmission-level voltage customers who opt-out of RPS compliance shall not be charged REC costs should reflect the fact REPs may negotiate different terms with their customers, TXU Energy said in comments on the proposal (35628, Matters, 8/28/08).

Proposed rule 25.173(j)(2) would require a retail entity not to collect costs attributable to the REC program from an eligible customer who has submitted an opt-out notice.

To start, many REPs and transmission-level voltage customers are currently operating under long-term contracts, TXU noted. "By requiring REPs to now absorb REC costs that they may have built into their pricing structure and agreed to with their customers may severely burden such entities from a financial standpoint," TXU cautioned.

Conversely, the REP could benefit from a customer opting-out of RPS compliance if the retail price has been locked-in, but the REP has not yet purchased the associated RECs already built into that price.

Treatment of the costs attributable to the REC program between REPs and eligible customers does not need to be specified in the rule, TXU said, suggesting language that recognizes the customer can enter, or may have entered, into a retail electric contract with the REP with different terms.

Reliant Energy called the proposal "not lawful," noting PURA holds that there shall be no regulation of the prices charged by REPs. Nowhere does the RPS statute say that a REP is required to charge

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BHE Sees Standard Offer Providers Gaining Advantage if Uncollectibles Rule Changed

Adjusting Maine's partial payment rules to have standard offer uncollectible amounts recovered by T&D utilities along with regulated service uncollectibles would give Standard Offer Providers a pricing advantage over other Competitive Electricity Providers, Bangor Hydro-Electric observed in comments in a Maine PUC investigation (2008-351, Matters, 9/4/08).

Currently, the T&D utilities charge Maine Standard Offer Providers a "retainage fee," or discount on receivables, to reflect uncollectible risk. The retainage fee is appropriately reflected by Standard Offer Providers in their bids. As BHE explained, Standard Offer Providers are insulated from further collections risk, as any under-collection beyond what is in the discount is carried by the T&D utility, and reflected in the retainage fee for the next standard offer period.

Changing the payment system so that no retainage fee is charged, and standard offer uncollectibles are recovered by utilities in T&D rates, would give Standard Offer Providers a pricing advantage, because they would no longer need to price in a retainage fee adder to their supply bids and ultimate rates. Competitive Electricity Providers, however, would still be adding an uncollectible premium to their rates because they would face the complete risk of collections, thus making Competitive Electricity Providers less competitive to Standard Offer Service, BHE noted.

The PUC initiated its investigation because of the growing standard offer arrears for certain rate classes at Central Maine Power, which have been exacerbated by CMP's limited "bucket" system for assigning past-due vintages. Under CMP's system, all balances past 90 days due are treated as if they are past due by the same amount of time. The current partial payment rules require T&D

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ConEd Opposes Listing Full Cost of Service on All Bills

Including the cost of full (bundled) service on all Consolidated Edison bills, even those billing for ESCO supply, would not give customers sufficient or relevant information to compare costs of supply, ConEd said in rebuttal testimony in an electric rate case.

The suggestion to include cost of full service on all bills was recommended by Consumer Power Advocates to help customers negotiate ESCO contracts (08-E-0539, Matters, 9/12/08).

However, ConEd argued that costs are better compared over a longer period, such as 12 months, rather than month-to-month on bills, especially since competitive pricing alternatives are usually based on long-term pricing models.

Showing monthly comparisons might prompt customers to switch more frequently, with customers possibly losing the benefit of supplier pricing, ConEd noted. Increased switching or returns to bundled service may require additional ConEd customer service staff, the utility added.

ConEd also opposed Consumer Power Advocates' suggestion that ConEd shadow bill new Mandatory Hourly Pricing customers for a year before starting MHP. ConEd explained that shadow billing would extend the ramp-up to MHP by another six months. ConEd reported that it will already be providing hourly interval data on bills in advance of MHP so customers can see how their load is affected by time of day, season, and weather, allowing customers to make appropriate adjustments before MHP starts. ConEd will also conduct webinars and customer forums to educate customers on MHP, noting that the Commission previously decided during the expansion of MHP that shadow billing was not necessary.

ConEd offered rebuttal testimony opposing Staff's proposed 62% cut in ConEd's informational advertising budget to $6.7 million. Staff has argued that generic energy efficiency ads should not be purchased, since ads should target specific programs. ConEd defended general conservation ads as necessary to "prime the pump" for targeted, program-specific efficiency ads that are to be part of ConEd's proposed programs in the Energy Efficiency Portfolio Standard case.

ConEd defended its proposed new State Regulatory Affairs Department, citing a need for an increased effort and focus on state policy to meet customers' long-term needs. ConEd specifically envisioned an increased role in state activities related to fuel diversity, climate change and energy efficiency as prompting the need for a centralized, state-level regulatory affairs department. The State Regulatory Affairs Department would hire 16 employees at a cost of $915,000, and also budget $85,000 for travel and office services. One employee would be stationed in Albany to liaison with PSC Staff.

The New York ISO's change to weekly settlement and billing, anticipated in the summer of 2010, will significantly increase ConEd's workload in reviewing, processing and accounting of NYISO invoices, ConEd said. The increased volume of accounting entries will triple the number of hours devoted to invoice processing and nearly double the hours devoted to invoice accounting, ConEd reported. ConEd asked for three new full time equivalents to handle the increased workload. ConEd will also require computer system upgrades of $575,000 to accommodate more frequent ISO billing.

Marketers Blast CNG, SCG Limits on Returns to Firm Service

The Connecticut DPUC should curb Connecticut Natural Gas Corporation and The Southern Connecticut Gas Company's "unbridled discretion" to deny interruptible customers' requests to switch to firm transportation service, Direct Energy Services urged in exceptions to a draft decision.

As Direct reported to the DPUC, CNG and SCG have recently imposed their own moratoria on allowing interruptible customers to switch from interruptible service to firm service. The interruptible service agreements give the LDCs sole judgment to determine whether transferring a customer to firm service would impact the LDCs' ability to balance their load, and whether to accept the transfer.

The limitation is especially troubling, Direct noted, after the DPUC discovered that CNG and SCG included interruptible customer loads in their peak day analysis to design their distribution systems. The DPUC's 2006 unbundling decision specifies that reliability is to be defined as an LDC having sufficient firm capacity to serve firm demand only.

If interruptible customers' loads are already included in peak day analysis for system design, Direct sees no valid reason for firm service switching requests to be denied. Direct urged the DPUC to compel CNG and SCG to explain their actions further, and how the switching restriction to firm service is justified.

Since the DPUC last year reaffirmed the “value of service” method of pricing interruptible service, LDCs' prices for interruptible service have been harming customers, driving customers to firm service and providing "windfall" profits for LDCs, Direct claimed -- all results predicted by marketers in the prior cost allocation docket. The LDCs have reported unprecedented switching to firm service for economic reasons, Direct noted. Such facts contradict the DPUC's draft finding that interruptible customers pay lower rates than firm customers, and the Department's likely rationale for retaining value of service pricing.

Direct suggested capping value of service pricing at some level, such as the 100% load factor equivalent of the applicable firm rate.

Absent such a cap, the "confiscatory" pricing of interruptible service will simply drive all customers to firm service, Santa Buckley Energy cautioned. That will erase the opportunity for firm service customers to share in margins made from interruptible service, while also harming reliability by removing the ability to balance the system during emergencies.

While the DPUC's draft says such issues will be addressed in the future, Direct recommended prompt action to examine the adverse and anti-competitive actions undertaken by the LDCs

Maryland PSC Asks PJM for Regional Reliability Summit

The Maryland PSC asked PJM to convene a Regional Reliability Summit "as soon as possible," in a letter to PJM CEO Terry Boston.

The PSC envisions the summit providing each state with an up-to-date analysis of potential regional and state-by-state electricity shortfalls, and providing a forum for the affected State Commissions and PJM to discuss potential solutions.

The Commission has been investigating a potential reliability "gap" in 2011-2012 if certain transmission projects are not constructed by that period, and whether utilities should enter into contracts for emergency peaking generation (Matters, 9/23/08).

However, several stakeholders noted that, due to the regional nature of the grid, Maryland could still face blackouts even if it meets its share of any projected shortfall.

The Commission asked PJM to prepare a presentation detailing: (1) the potential region-wide capacity shortfall, beginning in 2011, based on the 2011/2012 RPM base residential auction; (2) each state's respective share of the potential capacity shortfall under different scenarios; and (3) the steps PJM could and would take on its own to address actual or foreseeable reliability shortfalls.

Michigan IOUs Submit 2009 PSCR Factors

Detroit Edison (U-15677) and Consumers Energy (U-15675) submitted Power Supply Cost Recovery plans for 2009 to the Michigan PSC.

Detroit Ed proposed a PSCR Factor of 17.29 mills per kWh for commercial and industrial customers for the 2009 calendar year, and a PSCR Factor of 17.67 mills per kWh for residential customers.

The PSCR plan was developed using a Choice sales forecast of 1,366 GWh in 2009, increasing to 2,335 GWh in 2013.

Consumers Energy sought approval for a uniform maximum PSCR factor of $0.02680 per kWh for all classes of customers. Consumers forecast Retail Open Access sales of 1,918 GWh in 2009.

Clean Power Markets Makes Case for Administering Md. Solar Program

Clean Power Markets challenged the Maryland PSC Staff's recommendation of rival PJM-GATS as the entity which should administer various functions related to the state's solar REC program, as Clean Power Markets argued it is currently running a solar REC price reporting system, while PJM-GATS is only investigating such a system (RM32, Matters, 8/14/08).

While Staff has relied on stakeholder

feedback indicating brokers perform needed solar REC price reporting in New Jersey, and can perform a similar function in Maryland, Clean Power Markets claimed that brokers do not perform such price reporting in New Jersey, as brokers, "cannot possibly know all of the transaction level details relevant to SREC transactions." Clean Power Markets explained that the New Jersey Market Managers actually provide Clean Power Markets with such information for distribution, including posting of weighted average prices on Clean Power Markets' New Jersey website.

Clean Power Markets also countered Staff's statement that many states are moving away from using Clean Power Markets as a renewable administrator, pointing to a contract extension through 2009 in New Jersey and an existing multi-year contract in Pennsylvania.

Clean Power Markets also reiterated that GATS does not perform audits or inspections of facilities producing solar RECs.

Briefly:

MXenergy in Tentative Play for Catalyst Energy Book

MXenergy on Friday was negotiating to acquire bankrupt Catalyst Energy's 30,000 natural gas customers in Georgia, as MXenergy agreed to provide Catalyst customers with gas through the weekend. The Georgia PSC may vote on the deal today (Matters, 10/2/08).

UBS Exiting Energy Trading

UBS said Friday it was exiting most of its commodity trading businesses, including power and gas trading, citing the current liquidity crisis. UBS had entered the energy trading business by buying Enron's operations.

N.J. BPU Approves LDCs' Gas Commodity Rates

The New Jersey BPU approved increased natural gas commodity rates for PSE&G and New Jersey Natural Gas. PSE&G residential customers will see a 14.3% increase in commodity rates while New Jersey Natural Gas customers will see an 8.9% commodity increase.

BPU Selects Offshore Wind Developer

The New Jersey BPU selected Garden State Offshore Energy, a joint venture of PSEG Renewable Generation and Deepwater Wind, as the preferred developer of a 350-megawatt wind farm off the coast of New Jersey.

FERC Sets Agenda for Merchant Transmission Conference

FERC released an agenda for its October 14 workshop on barriers to transmission development, particularly merchant development (AD08-13). The technical conference will be divided into two panels, Eastern Interconnect and Western Interconnect, with a focus on potential barriers to independent transmission, merchant transmission, joint ownership arrangements, and long-distance transmission projects crossing multiple corporate boundaries or that are regional in nature, and whether any barriers are due to the Commission's tariffs, policies, and regulations. The Commission is interested in gaining a better understanding of the rights, obligations, and challenges afforded merchant and joint-ownership transmission as compared to traditional transmission investment, and whether there are barriers to comparable treatment of such alternative entities in the wholesale/interstate transmission market.

D.C. PSC Issues Draft RPS Reporting Form

The District of Columbia PSC has issued a proposed electric supplier RPS reporting form for comments (FC 945, Matters, 4/11/08). Reports are due annually May 1.

Pa. PUC Sets Green Session

The Pennsylvania PUC scheduled a public hearing for Nov. 13 on alternative energy resources, energy conservation and efficiency, and demand side response tools and programs to assist consumers. Interested parties have until Oct. 15 to notify the Commission if they wish to testify or provide comments at the informal en banc hearing.

RPS Opt-Out ... from 1

the customer anything different as a result of the opt-out provisions, Reliant added.

Further, many contracts have a bundled price negotiated between the REP and customer, so there is no practical way for a REP to prove that certain costs were not included in a particular customer's price, Reliant observed.

TXU recommended that customers who are opting out should provide their ESI ID, meter number, unique account number, or other specific identification in their opt-out notification in order to tie the customer's consumption directly to the premise.

Even with such identification, Reliant cautioned that tracking megawatt hours that have opted-out will be challenging, especially when customers switch REPs, which will require ERCOT to adjust the amount of a REP's usage which is not subject to the REC goals.

Maine Arrears ... from 1

payments to be paid before Standard Offer payments of the same age, meaning under CMP's system, a 120-day old Standard Offer balance could be displaced by payment of a 90-day T&D balance, since both balances would be assigned the same age. Such displacement of past due Standard Offer balances led to growing arrears.

However, the utilities cautioned that any change to their current vintaging buckets would be costly. CMP estimated that to always apply payments to the oldest balance first within a vintage bucket would be take approximately 5,550 hours of labor to implement, with an approximate cost of $646,000. Applying payments on a pro rata basis between T&D and Standard Offer Service would take 3,600 hours of labor, with an approximate cost of $436,000, CMP said.

Maine Public Service said it would take two years to create an unlimited number of vintage buckets to avoid displacing older Standard Offer arrears with newer T&D arrears. Pro-rating existing buckets would only take months, though MPS insisted it does not have an allocation problem as CMP does since it is seeing consistent levels of uncollectibles between T&D and Standard Offer rates. MPS argued that it was not getting an unfair advantage by applying partial payments using the existing buckets.