Energy Choice Matters

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Calif. Draft Would Set Target of Jan. 1, 2010 for Novation of All DWR Contracts

Novating current Department of Water Resources supply contracts to accelerate a return to direct access would be in the "public interest," a California PUC draft decision finds, recommending setting a target goal for the final removal of DWR from the role of supplying power by January 1, 2010 (R. 07-05-025, Matters, 9/10/08).

While the specific magnitude of net savings from the novation process is uncertain, the draft concludes that the potential prospects for at least some net savings justify going forward with a plan of action.

"On balance, we thus conclude that the potential benefits of going forward with contract negotiations outweigh the potential downside risks, subject to appropriate safeguards," the draft states.

The draft uses the combined estimates presented by the IOUs, totaling $127.8 million, to represent a reasonable approximation of potential net benefits to be realized, assuming the process of removing DWR as a supplier were to be completed by January 1, 2010.

The proposed decision would form a working group to permit DWR, the IOUs, and Commission staff to plan and implement detailed protocols and strategies for conducting negotiations with the counterparties to the DWR contracts, with the goal of removing DWR as a party to the contracts while ensuring that any resulting contract changes are not detrimental to ratepayers. The working group will be responsible for proceeding with contract negotiations with the goal of removing DWR from all of its remaining contract obligations by January 1, 2010.

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RESA Wants Modification of D.C. Bill Error Reporting Rules

The Retail Energy Supply Association moved for clarification or modification of the District of Columbia PSC's recently adopted Electric Quality of Service Standards, which impose new billing error reporting requirements on retail suppliers. RESA cited the burden that the requirements would place on suppliers, as well as noting the role suppliers play in billing, in its motion (FC, 982, 1002).

As reported in *Matters* as the rules were proposed and approved (Matters, 7/28/08, 3/5/08), a supplier is to inform the Commission's Office of Engineering and the Office of the People's Counsel when a billing error has affected 100 or more customers, or the number of affected customers is equal to or more than 2% of the supplier's customer base (whichever is less). A supplier with less than 100 customers is to report errors when two or more customers are affected. Three reports on the error are required at various intervals.

But only Pepco knows a customer's usage because only Pepco reads meters, RESA noted. Many times, Pepco's usage data is based on estimated usage and must be corrected at a later date. As a result, it is not uncommon for an electricity supplier to receive inaccurate usage data from Pepco, RESA noted. Receiving such inaccurate usage data is an occurrence over which the electricity supplier usually has no control or knowledge, RESA added. RESA also reported instances in which Pepco's usage data is based on actual meter readings but is subsequently corrected at a later date -- another scenario where suppliers have no control or knowledge.

RESA is concerned that such scenarios could fall under the PSC's definition of "billing error" and require supplier reporting to the Commission even when, in many cases, the customer notifies the

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Illinois Co-op to Aggregate Ameren Mass Market Customers

An Illinois cooperative is entering the state's residential retail market under a new aggregation initiative to be announced today.

Southwestern Electric Cooperative, based in Greenville, Illinois, is launching New Illinois Cooperative Energy (NICE) as a statewide nonprofit power co-op that is to pool load to negotiate better pricing for customers, focused on the Ameren territories.

NICE needs some 7,000 customers to enroll in its pool prior to executing a supply deal, and expects to start operations early in 2009. As part of the pool, residential customers would be charged a monthly co-op fee of $4, while small businesses would pay $8.

Power would be procured from Integrys Energy Services.

Kerry Sloan, CEO of Southwestern Electric Cooperative, will serve as NICE's president.

Accent, StarTex Newly Designated Non-Volunteer POLRs in Latest PUCT Staff Proposal

Accent Energy and StarTex Power are among the REPs newly designated as non-volunteer POLRs in the PUCT Staff's revised preliminary designations of POLRs for the 2009-2010 term (Matters, 9/26/08).

Accent replaced First Choice Power as a non-volunteer residential POLR for the AEP Texas North service territory. StarTex was designated as a small non-residential non-volunteer POLR for the CenterPoint territory after Reliant Energy's two REP certificate holders were merged into one entity for purposes of POLR designation. That change also required numerous other REPs to pick up additional POLR responsibilities, although other than Accent and StarTex, the other replacement POLRs had previously been designated as non-volunteer POLRs in at least one other service territory and class.

Although several REPs had their non-volunteer POLR status removed in just one particular class and territory while maintaining other obligations, Stream SPE was the only REP previously designated as a non-volunteer POLR to completely avoid non-volunteer status in the modified designations. Stream's status as a non-volunteer residential POLR at AEP Texas Central/Sharyland was replaced by Just Energy.

Constellation NewEnergy's request to be removed as a small non-residential POLR at AEP Central/Sharyland was honored, but the updated designations maintained CNE as a small non-residential POLR at AEP Texas North despite CNE's objections (Matters, 10/2/08).

Suez Energy Resources NA was removed as non-volunteer POLR for large non-residential customers in the joint AEP Central/Sharyland territory after Suez said it was not certified to transact in Sharyland.

An updated list of both non-volunteer POLRs as well as POLR eligibility can be found project 35630. As the preliminary designations have changed, REPs may again challenge their new or modified designations by October 13.

FERC Denies Interventions in Edison Mission Investigation

FERC refused to grant intervention to various state regulators, consumer advocates and cooperatives in its settled investigation of Edison Mission Energy's bidding behavior, citing Commission policy and court precedent (IN08-3-001, Matters, 5/20/08).

State regulators and other stakeholders had sought intervention because the settlement that FERC reached with Edison regarding Edison's high-offer strategy contemplates that Edison is released from all other claims relating to the investigation's subject matter, foreclosing stakeholders' opportunity to pursue relief for potential tariff violations (Matters, 6/19/08).

Illinois Attorney General Lisa Madigan went a step further and accused Edison of continuing its higher offer strategy, before being forced to recant such false allegations because the AG's evidence was faulty (Matters, 7/1/08).

No entity has a right to participate in an investigative proceeding initiated under Part 1b of the Commission's regulations, FERC said, and stakeholders failed to show extraordinary circumstances that might warrant intervention.

"The fact that the investigation in this case centered on behavior in the PJM markets does not mean that every participant (or every representative of a participant) in PJM should be permitted to intervene," FERC said.

A court decision emphasized that the

Commission, "possesses wide latitude to decide whether to commence enforcement measures, as well as in whether and how to resolve an enforcement proceeding once initiated," FERC claimed.

Precedent supports the Commission's right to resolve an enforcement proceeding by approving a settlement that precludes third parties from seeking relief for any injuries arising out of the subject matter of the investigation, the Commission asserted.

"Movants' belief that they have an insuperable right to seek redress for past injuries arising from the behavior investigated notwithstanding the settlement is incorrect," FERC said.

FERC also reported that corrected Electronic Quarterly Reports submitted by Edison Mission for the first quarter of 2008 show that, contrary to Illinois AG's contentions, Edison Mission's units were very active participants in the PJM day-ahead market and have complied with terms of the FERC settlement. The new data shows that of the total energy sales that Edison Mission's Midwest Generation units made in the PJM energy market for the first quarter of 2008, approximately 95% of the energy sales were made in the day-ahead market. Madigan had claimed that the EQRs showed Edison was not participating in the day-ahead market as required by PJM for capacity resources.

Briefly:

Reliant Asks DPUC to Hold Licensing Case

Noting its ongoing review of strategic business alternatives, Reliant Energy asked the Connecticut DPUC to abate its pending license application (Matters, 8/11/08). Reliant asked for six additional weeks to respond to interrogatories, and asked that a final decision, currently scheduled for November 24, be delayed accordingly. Reliant was pursuing Connecticut entry as part of its growth in large C&I sales, a strategy which may be significantly reduced as the retailer attempts to limit its collateral needs while focusing on higher-margins sales.

CenterPoint Updates REPs on Backlogs

CenterPoint Energy held a conference call with market participants yesterday to update its enrollment order processing and ongoing restoration activities (Matters, 10/2/08). CenterPoint reported that on Monday, October 6, it worked 13,825 enrollment orders and received 6,125 new enrollment orders. Yesterday, CenterPoint dispatched 13,200 enrollment orders to the field, with some 68,000 enrollment orders remaining in the system. Specific orders for Reconnects after Disconnects for Non-Pay, Temporary Disconnects, Reconnects after Temporary Disconnect, Lock Band Removals, and Change Orders are flowing through CenterPoint's systems and being worked as available. Move-Ins and Move-Outs will not be backdated for scheduling or completion. The date that the order is sent to the field will be used for the scheduled date, and the actual field completion date will be used for the completion date.

Conn. Draft Would Grant Stanwich an Aggregators License

The Connecticut DPUC would grant Stanwich Energy Advisors an electric aggregator certificate to serve commercial, industrial, municipal and governmental customers in a draft decision. Stanwich managing partner John O'Connell spent over two years as an account executive at Tradition Energy (Matters, 9/10/08).

Pa. PUC to Hold Hearings on Wholesale Markets

The Pennsylvania PUC will hold a special en banc hearing focused on current and future wholesale electricity markets on October 23, with a second hearing planned for a date to be determined. Appearing before the PUC will be FERC Commissioner Marc Spitzer and representatives from PJM, the Midwest ISO, PJM's market monitoring unit, and the Organization of PJM States, Inc.

DPUC OKs GenConn Middletown CfD

The Connecticut DPUC approved a Contract for Differences between Connecticut Light and Power and GenConn Middletown for GenConn's cost-of-service peaker. GenConn's Middletown unit, a joint venture of NRG Energy and United Illuminating, is replacing the withdrawn project of Bridgeport Energy II, a joint venture of Dynegy and LS Power (Matters, 10/2/08).

Linde Energy Services Gets Ohio Electric License

PUCO granted Linde Energy Services a competitive retail electric service provider license (Matters, 9/9/08).

Action on Pa. Electric Bills Unlikely

With the end of the Pennsylvania legislative session nearing (both houses' final scheduled sessions are today), prospects for electricity legislation, particularly relating to the scheduled end of rate caps, appear dim, lawmakers said yesterday. Republican Sen. Robert Tomlinson, chair of the Consumer Protection Committee, said chances of electricity legislation passing were slim. Inaction would kick the issue into 2009 which is to be the final year of rate caps at PPL, the state's second-largest electric utility.

Mich. PSC Denies POR, GEI Rehearing

The Michigan PSC denied rehearing requests from Energy Michigan and Constellation NewEnergy regarding the PSC's adoption of a general educational institution credit for bundled service, and rejection of POR, in Consumers Energy's rate case (U-15245, Matters, 7/14/08). The PSC said Energy Michigan and CNE's arguments merely reiterated previously raised issues in the case and failed rehearing criteria.

FERC-NARUC Ask for Comments on Procurement Report

The FERC-NARUC collaborative on competitive procurement invited stakeholder comment on its recent study of procurement practices (Matters, 9/10/08). Comments are due October 20 in advance of the collaborative's next meeting on November 18 at the NARUC conference.

FirstEnergy Not Seeking Waiver of FERC Approval for Affiliate Sales to Ohio EDCs

FirstEnergy clarified that it is not seeking a waiver of the requirement for FERC approval for sales between its unregulated affiliates and Ohio distribution companies in a revised Market Based Rate filing (ER01-1403 et al., Matters, 9/23/08). The Ohio Consumers Counsel said it would withdraw its objection to the MBR filing based on that clarification, with the understanding that FirstEnergy will separately notice any subsequent application for a waiver of the requirement for FERC approval of affiliate contract sales to its Ohio utilities.

DWR Novation ... from 1

The initial target of January 1, 2010 is meant to maximize potential ratepayer benefits from novation while mitigating the potential for downside risk. However, unproductive negotiation efforts would be curtailed before they result in the expenditure of unnecessary costs or time, and the target date could be adjusted mid-course to reflect such stalled negotiations.

Consistent with the recommendation of many stakeholders, the draft recommends negotiating replacement agreements for the existing contracts without novation clauses as an initial priority. For those four DWR contracts, the goal will be to negotiate provisions to remove DWR and substitute one of the IOUs for subsequent power purchased from the respective supplier.

Of the four contracts without novation clauses, the first priority shall be to focus on the Sempra contract. Replacing the existing Coral contract would be the second priority. The PUC is currently involved in litigation as to whether the terms and prices of the existing Sempra and Coral contracts are "just and reasonable." The Coral contract also has provisions stating that it cannot be transferred unless all other DWR contracts have been transferred.

"Prioritizing these two contracts is appropriate, particularly given the uncertainties as to whether a successful revised Sempra or Coral contract can be negotiated, the potential time required for negotiations, and the magnitude of benefits to ratepayers that depend upon the successful negotiation of these contracts," the draft says.

Should negotiations prove unworkable on the two contracts, the draft would change the target date of DWR's exit from the supply business to October 1, 2011, (the expiration date of the Sempra contract) or June 30, 2012 (the expiration date of the Coral contract).

The draft still estimates net savings of $56 million through novation of only those DWR contracts expiring after September 30, 2011, and $30.5 million from novation of only contracts expiring after June 30, 2012. After June 30, 2012, only 500 MW would remain under contract with DWR.

After the Coral contract, the SFO Peakers contract would be the next priority, as it lacks a novation clause and has the longest remaining term (expiring in 2015).

The draft would accept Southern California Edison's two-step contract allocation process to facilitate a transition to a "cost-follows-contracts" methodology for inter-utility cost allocation. SCE's proposal would essentially preserve the existing allocation methodology, consistent with prior decisions.

The proposed decision would reject the suggestion from several marketers that entities other than IOUs be allowed to bid to acquire ownership rights for power that is currently supplied by DWR, rather than strictly novating contracts to IOUs. The draft agrees with the concerns raised by various parties that practical difficulties, cost allocation questions and potential delays resulting from such a program would not be in the best interests of ratepayers.

The draft concludes that novation would not violate any provision of Water Code Section 80260, and rejects arguments that novation is prohibited because all IOU procurements must be done through competitive RFOs. Pub. Util. Code Section 454.5 has given each IOU explicit authority, subject to proper conditions and justifications, to contract on a bilateral basis, the draft notes.

Direct access cannot be reinstated as long as DWR is supplying power to IOUs and customers.

D.C. Bill Errors ... from 1

supplier of such errors before the invoice is paid, resulting in a re-bill from the supplier.

RESA suggested that such errors caused by inaccurate meter readings not be required to be reported by the supplier since the supplier simply uses information provided by Pepco. Reporting should also not be required if the customer has not suffered financial harm because of the error, such as when a re-bill is issued before payment.

The reporting requirements should be limited to residential customer errors, RESA added. RESA also asked for clarification that the term "customer" refers to the person or entity purchasing power, rather than specific meters, for purposes of calculating the number of customers affected by an error.

The PSC is currently reviewing similar reporting requirements for natural gas service in FC 977 (Matters, 8/25/08), and no marketers have commented on the proposal yet.