

Energy Choice Matters

October 9, 2008

PUCT Holds REP Certification Proposal for Publication Until Oct. 23 Meeting

The PUCT deferred acting on a proposal for publication which would require non-investment grade REPs to possess at least \$1 million in liquid capital, as Commissioner Kenneth Anderson argued that the Commission's three rulemakings on REP certification (35767), customer disclosures (35768), and POLR procedures (35769) need to be better integrated.

The Commission elected to consider Staff's proposal on more stringent REP certification standards at the October 23 open meeting. As first reported here (Matters, 10/2/08), the draft calls for non-investment grade REPs to have \$3 million in liquid capital, although the amount can be lowered to \$1 million if the REP has been in the market for three years without default.

Anderson suggested that if the POLR rules can be robustly tailored to protect consumers, some of the proposed REP certification rules may no longer be needed, or could be pared back.

Anderson saw stronger POLR rules as easing the certification reforms needed, which would reduce any potential barriers to entry that the proposed rules may contain. Anderson specifically cited the heightened financial requirements, as high as \$3 million, as a potential barrier to entry which is, "very likely to reduce the number of REPs participating in the competitive retail electric market."

Some stakeholders, however, have pointed to the certification rulemaking as the "gating" issue. If certification is robust enough that REPs will not fail, then proposed product definitions and other limiting features of the disclosure rule may not be needed, Direct Energy has said (Matters, 10/7/08). Concern over the current MCPE-based POLR price would also be eased if fewer REPs defaulted

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CenterPoint Asks for Submission of Non-Residential DNPs; Deposit Waivers Extended for Some Customers

CenterPoint Energy asked that REPs submit all outstanding Disconnect for Non-Pay requests for non-residential customers only, so CenterPoint can assess the quantity of non-residential DNPs outstanding, and begin planning for the specific types of internal resources that will be required to complete the transactions for the various types of premises involved.

The PUCT yesterday also endorsed CenterPoint's request to extend the moratorium on residential DNPs until October 24, as exclusively reported here (Matters, 10/2/08). DNPs for Texas-New Mexico Power customers protected by the current emergency rule can apparently resume after October 10, as Staff said its latest order on emergency protections would not address DNPs. However, a final order was not available yesterday.

Commissioner Kenneth Anderson expressed concern about further delaying the resumption of DNPs, fearful that losses would continue to pile up for REPs and REPs might not be able to bear much more. Chairman Barry Smitherman, however, noted REPs have indicated their preference to clear the Move-In and Move-Out backlog first, and Reliant Energy stated it had no objections to CenterPoint's restoration timeline. Still, the Texas Energy Association for Marketers suggested that the wire charges associated with hurricane-impacted customers protected from disconnection be recouped by CenterPoint through a regulatory asset, with REPs not obligated to pay such charges.

The Commission also extended the waiver of deposit requirements for a limited subset of

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UI Reports September Shopping Data

United Illuminating Switching Statistics As of September 30, 2008

Total Accounts with Alternate Supplier: 33,069

Customer Count Breakdown:

3rd Party Supplier	Residential	C&I	Total	August 31, 2008 Total
Clearview Electric	0	0	0	0
Consolidated Edison Solutions	927	800	1,727	1,692
Constellation NewEnergy	286	2,900	3,186	3,194
Direct Energy Business (Strategic)	10	653	663	671
Direct Energy Services	2,479	907	3,386	2,963
Dominion Retail	16,168	1,035	17,203	17,372
Gexa Energy	0	41	41	38
Glacial Energy of New England	27	379	406	305
Hess Corporation	0	56	56	56
Integrus Energy Services	8	884	892	838
Liberty Power	0	23	23	25
MXenergy	1,467	1,353	2,820	3,204
Public Power & Utility	1,450	251	1,701	1,565
Sempra Energy Solutions	25	438	463	457
Suez Energy Resources NA	0	37	37	18
TransCanada	8	457	465	465
Totals	22,855	10,214	33,069	32,863

CTCleanEnergyOptions

	Residential	C&I	Total
CTCleanEnergy - Community Energy 50%	264	2	266
CTCleanEnergy - Community Energy 100%	2,165	40	2,205
CTCleanEnergy - Sterling Planet 50%	230	6	236
CTCleanEnergy - Sterling Planet 100%	765	62	827
Total All CTCleanEnergyOptions Suppliers	3,424	110	3,534

UI Last Resort Service (LRS)

		%[^]
Total # All LRS Accts	264	0.08%
Total All LRS MWWhs	121,398	24.80%
Total 3rd Party LRS Accts	232	87.88%
Total 3rd Party LRS MWWhs	110,017	90.63%

UI C&I Standard Service

		%
Total # All C&I SS Accts	37,866	11.59%
Total All C&I SS MWWhs	185,692	37.93%
Total 3rd Party C&I SS Accts	9,982	26.36%
Total 3rd Party C&I SS MWWhs	102,650	55.28%

UI Residential Standard Service

		%
Total # All SS Res. Accts	288,648	88.33%
Total All SS Res. MWWhs	182,417	37.27%
Total 3rd Party SS Res. Accts	22,855	7.92%
Total 3rd Party SS Res. MWWhs	17,383	9.53%

Total All UI

		%
Total # ALL Accts	326,778	100%
Total ALL MWWhs	489,507	100%

[^] UI percentages reflect percent of UI *total* customers/MWWh. Supplier percentages reflect suppliers' percent of customers/MWWh in a specific *class*

Pa. Lawmakers Pass "Least Cost" Default Service Bill

Pennsylvania lawmakers yesterday approved default service procurement guidelines which mandate a mix of spot, short-term and long-term purchases designed to achieve, "the least cost to customers over time," but rejected proposals to extend rate caps or otherwise alter the impending move to market-based rates.

Gov. Ed Rendell has said he will sign the legislation (HB 2200), which permits procurements to be accomplished through auctions, RFPs and bilateral agreements. Absent additional Commission approval, long-term contracts (lasting four to 20 years) are to be limited to 25% or less of a utility's default service portfolio. Contracts longer than 20 years could receive Commission approval upon a showing they achieve reliable service at the least cost over time.

Default service prices for residential and small commercial customers are to change no more frequently than quarterly.

Utilities are required to offer customers time-of-use rates and real-time price plans upon the expiration of rate caps. Customers are to be provided smart meters upon request, while utilities will deploy smart meters over the next 15 years as well.

Rendell claimed conservation measures in the legislation would save customers \$500 million. Electric utilities are to cut usage 3% by May 31, 2013, while demand in the 100 hours of highest demand is to be cut 4.5% by the same deadline.

Utilities' conservation plans are to include a contract with one or more independent conservation service providers awarded through competitive bidding to implement the plan or a portion of the plan.

The legislation adds specific hydro and paper pulp plants to Tier 1 of the Alternative Energy Portfolio Standard, but is structured to do no harm to the value of Tier 1 RECs by requiring the PUC to increase the Tier 1 requirement in an amount to accommodate the new generation sources.

Delaware PSC OKs World Energy Auction for SOS

Delmarva Power & Light will procure SOS supply through a reverse auction conducted by World Energy, after the Delaware PSC approved changes to the procurement process.

Delmarva has used World Energy to procure SOS for its former Virginia customers, and the PSC found that, "the World Energy reverse auction process is a model that has experienced successful application to the wholesale market." Delmarva believes that the reverse auction process will provide transparent price feedback on the prevailing lowest price and can potentially stimulate more aggressive bidding and improved competition among suppliers.

In order to participate in the reverse auction, each participating supplier will be required to execute the World Energy Agreement. The fees for the services of World Energy will be paid by the winning bidders in the auction.

Delmarva also issued its SOS RFP for 620 MW of supply. Peak load contributions by customer class include approximately 295 MW for the combined Residential, Small Commercial and Industrial customers; 210 MW for the Medium General Service-Secondary (MGS-S) customers; 65 MW for the Large General Service-Secondary (LGS-S) customers; and 50 MW for the General Service-Primary (GS-P) customers.

Briefly:

Australian Market Developers Win PUCT License

The PUCT granted start-up Frontier Utilities, founded by several pioneers in Australia's retail electric market, a REP certificate (Matters, 9/5/08). Frontier CEO Donald Cheesman built several retail providers in Australia, including Victoria Electricity which has been responsible for approximately 30% of market churn in Victoria. Steve Eskrigge, co-founder of Frontier, introduced the ECO Gold loyalty card to the Australian market, which provided electricity customers with access to a broad range of discounts and energy products, in addition to partnering with Cheesman on several retail providers. Scott Evans, a veteran of several REPs in the ERCOT market, will lead Texas operations for Frontier.

Our Energy Gets REP Certificate

The PUCT granted Our Energy a REP certificate. Our Energy was founded by Mohan Wanchoo, president of EC Infosystems (Matters, 9/5/08).

Court OKs Catalyst Sale to MXenergy

A federal bankruptcy court approved the sale of Catalyst Natural Gas' customers to MXenergy for about \$1.5 million. As previously reported, MXenergy will honor Catalysts' fixed-rate contracts (Matters, 10/7/08). The court's order permits the return of prepaid amounts to Catalyst's prepaid customers, who will be put on an MXenergy variable rate plan. Transferred customers have 30 days to switch from MXenergy without penalty.

Delaware PSC Approves Delmarva Wind PPAs

The Delaware PSC approved Delmarva Power & Light's application for three land-based wind PPAs totaling 170 MW (08-205). The PPAs include two, 20-year contracts with Synergics Wind Energy for up to 100 MW of wind energy and RECs from farms in western Maryland slated for completion in 2009 and 2010. A 15-year contract with AES Corp. for up to 70 MW of wind energy and RECs from a farm in north central Pennsylvania to be completed in 2009 rounds out the PPAs. All Delmarva customers, even those served by competitive suppliers, may be charged for the wind power under a PSC draft (Matters, 8/7/09).

Howell Consulting Would Get Conn. Aggregators License Under Draft

The Connecticut DPUC would grant Howell Consulting an electric aggregator certificate to serve commercial, industrial, municipal and governmental customers in a draft decision. Principal Derek Howell was Director of Aggregations and Associations, U.S. North, for Direct Energy, after a stint at Select Energy (Matters, 9/18/08).

GE Global Trade Management Gets Delaware Broker License

The Delaware PSC granted GE Global Trade Management - Energy a broker license. GE Global intends to broker C&I load.

Md. PSC Issues RFPs for Constellation Review

The Maryland PSC issued two RFPs for consulting services to aid in its review of the expected filing of the acquisition of Constellation Energy by MidAmerican Energy Holdings. One RFP is for assistance to Technical Staff, the other is for providing advisory services to the Commissioners. Such guidance to Commissioners would include advice on: 1) financing, investment banking, accounting, energy markets, public service company operations, and various legal issues as these matters relate to the application; and 2) filed testimony by the parties, testimony received at the hearing before the PSC, as well as arguments of the parties contained in initial and reply briefs

PUCT Sets Workshops on Power Monitors for Low-Income Customers at Oncor

PUCT Staff will hold three workshops relating to the distribution of in-home electricity monitors for eligible low-income customers in Oncor pursuant to Oncor's advanced metering settlement (Matters, 8/12/08), and created project 36234 for the proceeding. Dates are October 17, November 10, and November 19.

Pepco Issues D.C. SOS RFP

Pepco issued an RFP for 270 MW of SOS supply for its District of Columbia customers under a previously approved schedule (Matters, 9/26/08). Peak load contributions by customer class include approximately 140 MW for residential customers, 10 MW for small commercial customers and 120 MW for large commercial customers. The contracts awarded for the 140 MW in residential load and 10 MW in small commercial load are for three years, and those for 120 MW of large commercial load will be for two years. Retail prices would be posted Jan. 30 if only two tranches are conducted, or March 20 if a third tranche is conducted.

Nodal Exchange Announces Mock Auctions

Nodal Exchange, which claims to be the first independent electronic commodities exchange for forward locational electric power trading, said yesterday it intends to conduct mock auctions for potential participants of the exchange on November 18 and 19, in preparation for an early

2009 launch. Nodal Exchange said over 100 traders representing more than 50 entities have already indicated they will be participating in training sessions to prepare for the mock auctions. Nodal Exchange said the auctions permit a wide range of order types including: outright energy at a single location, spreads between locations or over time, and aggregates of time periods (strips). To avoid counterparty risk, Nodal Exchange said all auction transactions will be cleared by LCH.Clearnet, the central counterparty for the exchange. "In these times of greater credit risk, the clearing function has become critical to meeting the needs of today's power trading market," Nodal Exchange said.

REP Certification ... from 1

because of stronger certification.

Anderson believes the POLR rules should provide (1) speedy transfer of customer accounts (and their associated deposits, if any) to their respective POLRs, (2) enhanced, clear and repeated disclosure to those affected customers, (3) speedy transfer of those same customers from the POLR to a new REP of their choice, (4) strong and effective protection of customer deposits, and (5) some sort of "reasonable price protection" for those customers during a reasonable, short-term period following their transfer to the POLR. Anderson stressed REPs should not have a heart attack over the reasonable price protection proposal, knowing it will be difficult to strike the appropriate balance. It will do "little good" if the Commission cripples POLRs financially because they suddenly must handle thousands of new customers at a price that cannot be adequately hedged, Anderson said in a memo.

Chairman Barry Smitherman asked that Staff revise the so-called Tier 1 and Tier 2 financial differentiation of REPs in the current proposal, voicing a concern Tier 2 REPs could be negatively viewed by those unfamiliar with the Texas market. Under Staff's draft, Tier 1 REPs are financially qualified by possessing an investment-grade credit rating, or tangible net worth greater than or equal to \$100 million and associated criteria. Tier 2 REPs would be those certified due to having liquid capital in excess of \$3 million (or lesser amounts based on their

history in the market). Smitherman suggested labeling the certifications by their respective section numbers, f(1)A and f(1)B, rather than tier numbers.

Smitherman and Anderson also questioned financial reporting requirements for REPs, noting limitations on Commission Staff. Smitherman wanted to stress that just because the Commission may get quarterly reports on REP financials, that doesn't mean the Commission will be like the SEC with an army of investigators. While recognizing staffing limitations, Anderson also questioned whether quarterly reports are too infrequent, and whether monthly reports are needed for REPs with a tangible net worth below a certain threshold. If the Commission is going to get into the regulation of the financial strength of REPs, does it need to consider intermediate steps between certification and de-certification, such as a REP financial watch list and a rehabilitation process short of de-certification, Anderson asked.

Smitherman and Anderson both believe the proposal's requirement for Commission approval of the transfer of a REP certificate goes beyond the authority of the Commission as embodied in PURA, although they suggested after a certificate is transferred the Commission could compel the new holder to prove it meets the certification requirements.

Anderson also believes the Staff's proposal to protect customer deposits needs to be refined to clearly and effectively insulate such funds from REP creditors, particularly if the REP files for bankruptcy protection. Currently Staff's proposal calls for such funds to be held in escrow, or, for investment-grade REPs, merely a restricted cash account.

Disconnects ... from 1

customers, those in Galveston and a discrete set of zip codes that were either most severely impacted by Hurricane Ike and had the highest amount of outages, or those that were last to have power restored. REPs are prohibited from charging a deposit for such customers to initiate or maintain service while the rule remains in effect. A written order containing the zip codes was not available yesterday.

CenterPoint's enrollment backlog stands at 59,914. It is typically dispatching and working

12,000-14,000 enrollment orders daily, while still receiving 4,000-6,000 new enrollments daily.

The Commission also said it would engage a consultant to perform a cost-benefit analysis of hardening the system to decrease the potential for future outages (Matters, 9/30/08), and would weigh infrastructure costs against the lost productivity from outages lasting weeks. In addition to assisting customers, shortened outages would also ease the burdens placed on REPs from loss of load and the associated long supply positions.