Energy Choice Matters
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PUCT Staff Proposal Could Make Any Eligible REP a Mandatory POLR

All eligible REPs could be subject to serving as a POLR under a proposal for publication from PUCT Staff that prices POLR service at a REP's month-to-month rate except in some large transitions, and removes the 130% MCPE multiplier in POLR rates if the MCPE rate is used (35769, Matters, 9/22/08).

Staff's proposal would rename POLR service as "Emergency Service" and further split the current volunteer/non-volunteer designations for POLR providers.

Providers would include Voluntary Emergency Service Providers (VESPs), Mandatory Emergency Service Providers (MESPs), and Large Service Providers (LSPs).

Voluntary Emergency Service Providers would volunteer in the same manner as volunteer POLRs do so currently. However, in addition to the current ability to limit the amount of customers they wish to serve, Voluntary Emergency Service Providers could also designate, for the large non-residential customer class only, the maximum load they would be willing to serve.

Any REP eligible to provide Emergency Service could be called upon to serve as a Mandatory Emergency Service Provider. Eligibility would be determined in the same manner as current POLR eligibility (based on percentage of ESI IDs and retail sales plus other factors), and REPs could challenge their designation as they can do under the current rules.

During a mass transition, ERCOT would transfer customers to Voluntary Emergency Service Providers, up to the number of customers or maximum load that each Voluntary Emergency Service Provider has offered to serve.

After taking into account transitions to Voluntary Emergency Service Providers, if the remaining

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Dominion Retail Not Rushing on ERCOT Expansion

Dominion is "not in any hurry" to expand its retail business in ERCOT, CFO Thomas Chewning said yesterday on an earnings call.

Its Dominion Retail subsidiary purchased Cirro Energy this summer (Matters, 8/14/08), which Chewning likened to putting a toe in the water. Dominion had been watching the Texas market "for a long time" and waited until it saw some dislocation in it before entering.

While growth opportunities may present themselves in Texas, Chewning said it won't be something Dominion concentrates on, since it has plenty of other things on its plate.

Dominion Retail, which previously has been focused in the Northeast, Mid-Atlantic and Midwest, has grown earnings from $5 million to $80 million in the last five years, Chewning said, attributing growth to very conservative hedging programs and low customer acquisition costs.

Dominion Retail customer count grew in the third quarter to 1.62 million from 1.57 million a year ago. Electric customers grew to 306,000 from 274,000 while Product and Services customers grew to 716,000 from 655,000. Natural gas customers fell to 595,000 from 636,000.

Competitive retail electricity volumes in the third quarter slid to 901,000 MWh from 1.1 million MWh a year ago. Gas volumes grew to 9,300 mmcf from 8,800 mmcf.

Operating earnings at Dominion Generation, which includes merchant and ratebased plants, were $449 million for the quarter, up from $403 million a year ago.

Executives reported that dark spreads are improving on lower coal prices, with improvements of

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NRG Scaling Back New Generation Plans; Earnings Triple

NRG Energy has shelved plans to pursue new combined cycle units in Texas, executives reported in releasing quarterly earnings that tripled the year-ago profits.

NRG CEO David Crane called it "hard to imagine" anyone pursuing new combined cycle facilities in ERCOT or anywhere else in the country on a merchant basis given current commodity prices and capital costs. NRG has "absolutely" stopped its study of whether to add gas-fired generation in ERCOT, Crane added. Crane noted some plants from other developers may be completed if they are far along enough in construction.

Crane also "would not be surprised" to see a downsizing of the Competitive Renewable Energy Zone transmission in Texas given the current cost of capital, though he was not forecasting any such action by Texas regulators. Crane expects to see a precipitous decline in the next 12 months in new wind farm development in West Texas and across the country, given not only the cost of capital but congestion in ERCOT that won't be resolved until 2011 or 2012 at the earliest. The decline won't be immediate, Crane said, because developers may already have so much invested in sites and equipment that it will take awhile for the pipeline to slow.

While NRG has drastically cut funding for putting steel in the ground for new merchant build, Crane still considers other development costs for new generation as money well spent. The financial crisis is killing of a lot of projects and any supply-side response to what was a tightening reserve margin in the past, Crane noted. But Crane believes there is going to come a time when the situation recovers and when there is an even more immediate need for capacity. Crane wants NRG to be positioned to spring into action with new generation at that time.

NRG reported net income of $784 million for the third quarter, up from $268 million a year ago, on $826 million in hedging gains. Excluding the hedging impacts, operating income for the third quarter rose 13% to $623 million compared to $553 million in the third quarter of 2007, driven most by strong results in Texas.

Adjusted EBITDA for the Texas region was up 20% to $490 million during third quarter 2008, compared to $410 million in 2007. Higher market prices and merchant generation, the roll-off of inherited contracts from Texas Genco, and lower nuclear development expenses drove the year-over-year improvements, which were mitigated by the impacts of Hurricane Ike. NRG reported a $15-20 million impact from hurricanes Ike and Gustav to its Texas and Louisiana plants, from opportunity costs, lower generation and maintenance costs.

Third quarter Northeast adjusted EBITDA was $193 million, a decrease of $11 million as compared to the same quarter last year, due to higher gas prices reducing generation, and lower capacity prices.

SouthStar: Bad Debt in Line With Expectations

SouthStar Energy Services reported an EBIT loss of $16 million for the third quarter, compared to a $1 million loss in the year-ago quarter.

Operating margin declined $21 million year-over-year, driven primarily by an $18 million lower-of-cost-or-market natural gas inventory valuation adjustment recorded during the quarter to reduce its weighted average cost of natural gas inventory to market value, resulting from the significant decrease in natural gas prices during the quarter. A 3% decrease in the average number of customers year-over-year, and slightly lower contributions from the Ohio market, also decreased operating margin.

SouthStar operating expenses were down $2 million on lower outside services and marketing expenses.

Executives are continuing to watch bad debt closely but thus far have not seen anything out of line with expectations, reporting that levels are consistent with historical trends. Still, given the economic downturn, SouthStar anticipates bad debt will be higher through the next year.

Parent AGL Resources reported higher net income of $65 million, compared with $13 million a year ago, on hedging gains.

Marketers Recommend Change in DWR Novation Priority

A proposed schedule for novation of California Department of Water Resources power supply contracts contained in a draft decision should be amended so that work simultaneously occurs to novate contracts expected to cause hurdles as well as on contracts which should be easier to novate, competitive suppliers suggested.

The draft, first reported by *Matters* (Matter, 10/8/08), proposed first negotiating four contracts without a novation clause -- starting with the litigious Sempra and Coral contracts.

The priority to renegotiate those four contracts was proposed because DWR must exit all contracts for direct access to return, and failure to renegotiate the four contracts without novation clauses would make novating other contracts expiring before them pointless.

However, the California Alliance for Competitive Energy Solutions, the Alliance for Retail Energy Markets and Reliant Energy objected to deferring work on the 22 contracts with novation clauses, suggesting it would not be difficult to assign some working group representatives to work on the "straightforward" novation of the 22 contracts without impairing progress on the four contracts lacking novation clauses. Such dual focus would increase the likelihood of meeting the target Jan. 1, 2010 date for novation of all contracts, marketers said.

Simultaneous efforts to novate the other 22 contracts would also increase the benefits from the novation process, such as the return of cash reserves associated with the contracts to ratepayers, suppliers added.

Suppliers noted that the Coral contract currently has a provision stating that it cannot be transferred unless all other DWR contracts have been transferred. Therefore, renegotiating the Coral contract first and then moving forward with novation of other contracts would not be an efficient approach from a timing perspective, marketers argued.

Other comments on the proposed decision merely recited previous arguments covered in this space.

Pepco, Delmarva Post Type II Rates

Delmarva and Pepco reported to the Maryland PSC new Type II rates to be effective starting Dec. 1, 2008, lasting through Feb. 28, 2009.

Delmarva

Rate SGS-S 10.5210¢/kWh

Delmarva

Rate LGS-S

On-Peak:	12.0260¢/kWh
Off-Peak:	10.1350¢/kWh

Rate GS-P

On-Peak:	11.5680¢/kWh
Off-Peak:	9.5450¢/kWh

Pepco

Rate MGT LV II

On-Peak	11.183¢/kWh
Intermediate	11.183¢/kWh
Off-Peak	11.183¢/kWh

Rate MGT 3A II

On-Peak	11.025¢/kWh
Intermediate	11.025¢/kWh
Off-Peak	11.025¢/kWh

Briefly:

Re-regulation, Rate Freeze Among Issues in Constellation-MidAmerican Review

A consideration of re-regulation and the imposition of an 18-year rate freeze are among the proposed issues to be debated in the Maryland PSC's review of MidAmerican Energy Holdings' acquisition of Constellation Energy. The proposed list of issues was developed on a conference call of interested parties and submitted by PSC Staff. Other issues include consideration of whether the State of Maryland should offer to purchase Constellation's stock; whether MidAmerican's proposed study of ratebased generation is needed in light of similar pending dockets; whether any new utility or affiliate generation authorized in the merger would negatively impact wholesale and retail markets; whether the merger would advance or harm retail competition; and whether energy efficiency proposals would be competitively neutral. Evidentiary hearings are proposed for the week of Feb. 16, 2009, with a decision slated for April 15, 2009.

TXU Energy Trimming Prices

TXU Energy is lowering prices by as much as 10% for more than 300,000 existing customers on several month-to-month residential plans. TXU cited falling wholesale prices for the price cut, which will take effect Nov. 17. TXU had cut its legacy price-to-beat residential price 15% in 2007 as part of its leveraged buyout, a move cited by other REPs as creating margin compression. The new price reductions are for TXU's PowerStart, Texas Choice and Energy Freedom Plan products, with the cuts varying by product. TXU also said it cut prices for new customers as much as 8% in October.

FERC OKs Eagle Energy Sale to EDF Subsidiary
FERC approved the acquisition of Eagle Energy Partners I (a Lehman Brothers subsidiary) by subsidiaries of EDF Trading Limited.

N.Y. AG Releases Wind Ethics Code
New York Attorney General Andrew Cuomo released a Wind Industry Ethics Code yesterday that establishes a new task force and standards to ensure transparency and deter improper relationships between developers and local government officials. Cuomo had been investigating Noble Environmental Power and First Wind, who were the first signatories to the code, regarding allegations of improper dealings with public officials and anti-competitive practices, such as improper land-use agreements or improper benefits given to public officials (Matters, 8/28/08). The ethics code prohibits conflicts of interest between municipal officials and wind companies and establishes vast new public disclosure requirements.

Dominion East Ohio Reports SSO Rate
Dominion East Ohio reported its November Standard Service Offer rate will be $8.799/mcf, more than $1 less than the prior monthly rate and only marginally higher than the year-ago rate of $8.709/mcf.

Reliant, Merrill Extend Deadline
Reliant Energy and Merrill Lynch have agreed to extend a deadline for unwinding a credit sleeve from today until November 6.

DTE Energy Trading Earnings Fall
DTE Energy reported earnings for its energy trading unit of $19 million for the third quarter, down from $45 million a year ago, on lower mark-to-market gains compared to last year. Overall, DTE Energy reported earnings of $177 million, down from $197 million a year ago, though earnings at its Detroit Edison utility were higher by about $50 million, partially from a decrease in choice sales, executives said.

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load in the mass transition does not exceed 2% of the load for a class that Mandatory Emergency Service Providers serve, any remaining customers shall be assigned to Mandatory Emergency Service Providers.

If the remaining load is over 2% of the load for a class that Mandatory Emergency Service Providers serve, ERCOT would transfer any customers remaining after the transfers to Voluntary Emergency Service Providers to Large Service Providers, and would not assign customers to Mandatory Emergency Service Providers.

Large Service Providers would be chosen in a similar manner to the selection of the current non-volunteer POLRs. The Commission would designate five Large Service Providers for each customer class in each TDU area, selected as the five eligible REPs that have the greatest market share based upon retail sales in megawatt-hours, by customer class and area.

Emergency service providers would serve two-year terms beginning in January of each odd-numbered year as currently done.

Voluntary and Mandatory Emergency Service Providers would charge transitioned customers the lowest-cost month-to-month service plan that each provider currently offers to new customers in the customer class. Each Voluntary and Mandatory Emergency Service Provider would be required to post its lowest-cost month-to-month service plan on the Power To Choose website, or provide a description of the service and rate to the Commission and ERCOT. The Commission may establish a customer profile of demand and energy consumption to use in establishing the lowest-cost month-to-month rate.

Large Service Providers would charge transition customers a rate based on MCPE. For all but large non-residential customers, the energy charge of the Large Service Provider rate would be the sum over the billing period of the actual hourly MCPEs for the customer multiplied by the level of kWh used, plus line losses and ancillary services. For large non-residential customers, the energy charge of the Large Service Provider rate would be the appropriate MCPE, determined on the basis of 15-minute intervals, for the customer multiplied the level of kilowatt-hours used, plus line losses and ancillary services. For large non-residential customers, the MCPE would have a floor of $0/MWh. As currently allowed, Large Service Providers could petition for an adjustment of their emergency service rate if shown that the rate would not recover the cost of providing service.

For all customer classes, the Staff proposal removes the 130% multiplier for MCPE.

If the number of customers or maximum load in the mass transition does not exceed the amount that Voluntary Emergency Service Providers have offered to serve, ERCOT would assign customers to Voluntary Emergency Service Providers in ascending order of the price per kilowatt-hour offered by each provider. If multiple Voluntary Emergency Service Providers offer the same price, then ERCOT would assign the customers to the providers offering the same price on a random basis.

If the number of customers or maximum load in a mass transition exceeds the amount that the Voluntary Emergency Service Providers have offered to serve, ERCOT would assign customers to Voluntary Emergency Service Providers on a random basis. Assignment of customers to Mandatory Emergency Service Providers would be random as well.

ERCOT would assign customers to Large Service Providers in a non-discriminatory fashion, in accordance with their percentage of market share based upon retail sales in megawatt-hours, on a random basis within a class and service area.

Staff designed the rule to enhance the pool of Voluntary Emergency Service Providers so those REPs can acquire as many customers in a mass transition as possible.

The proposal explicitly permits emergency service providers to market competitive products to customers assigned to them pursuant to a mass transition, on a non-discriminatory basis. Providers would be required to make the same competitive products and services available to a transitioned customer that are available to similarly situated non-transitioned customers. A provider, in any marketing to the customer, would have to make it clear that the customer has the right to switch to a different REP or take service from the provider under a competitive product with a rate structure other than the emergency service rate, if the provider offers such a competitive product. While the Commission has encouraged current POLRs to offer customers competitive rates, some POLRs had raised concerns about running afoul of customer protection and discrimination rules in doing so.

In the event that customers continue to receive service from a Large Service Provider at MCPE for more than 15 days following a mass transition, the contact information for those customers would be provided to the Commission. The Commission may disseminate the contact information to REPs for the sole purpose of facilitating marketing to those customers subject to applicable privacy and other laws.

Staff did not propose any major changes to the current deposit structure, although Staff noted REPs are not required to ask for a deposit in a mass transition. Staff's proposal does hold that a REP whose customers are transitioned to an emergency service provider shall return the transitioned customer's deposit within seven calendar days of the transition, rather than seven days after the REP's receipt of an actual or estimated meter read supplied by the TDU.

ERCOT would send a postcard to customers in a mass transition on behalf of the Commission. ERCOT would also be required notify transitioned customers by all reasonable means including, but not limited to, automated phone-calls and emails. ERCOT would study the effectiveness of the notice methods used and report to the Commission.

The proposal would allow emergency service providers to request from ERCOT and the TDU certain customer contact information, including email, telephone number, and address, for transition customers, in addition to usage and demand data which may currently be requested.

ERCOT would be required to create a new transaction for customers in mass-transition no later than January 31, 2010.

The Staff draft strikes the current rule's language which states, "A 'move-in' transaction shall not be used to switch a customer's ESI ID to another REP when a 'move-in' has not occurred except when the premise is deenergized or in extreme circumstances as authorized by commission designee."

All REPs would be required to submit accurate customer data to ERCOT on a monthly basis, including ESI ID, service address, phone number, email address, and customer name. REPs failing to submit accurate information would be subject to enforcement measures.

The proposal clarifies that REPs shall not use the mass transition process as a means of ceasing service to some customers while retaining other customers. The new language is broader than the current prohibition of using a mass transition to eliminate "non-profitable" contracts while keeping profitable contracts.

Staff's proposal suggests that the charge for an out-of-cycle meter read to accelerate the customer off of emergency service and onto a new competitive provider shall be charged to the exiting REP, a change from the assignment of such cost to the gaining REP under the current rule. However, another section of the draft rule retains assignment of costs for out-of-cycle reads to the gaining REP, which perhaps may be an oversight.

Dominion ... *from 1*

$5-10/MWh in the past three weeks.

Parent Dominion reported lower earnings due to one-time gains in last year's quarter. Third quarter 2008 profits were $508 million, versus $2.3 billion a year ago when Dominion benefited from the sale of most of its non-Appalachian E&P operations.