Energy Choice Matters

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Central Hudson Proposes Utility-Owned Solar as Part of N.Y. RPS

The New York PSC should institute a program to allow utilities to build ratebased solar generation, Central Hudson urged in comments on the state's RPS program.

Central Hudson suggested establishment of a new "Utility-Sited Tier" within the RPS that provides utilities with the opportunity to construct, own, and operate small, utility-scale solar PV projects in their service territories. The utility plants would complement the wind-dominated Main Tier resources and small-scale PV Customer Sited Tier resources, "in order to more fully develop a diverse renewable supply portfolio," Central Hudson said.

The on-peak solar capacity resources could easily be sited near distribution system loads to defer T&D infrastructure investment, Central Hudson noted.

In a position paper on ratebased renewable generation attached to its comments, Central Hudson argued that, "there has been insufficient market response to either constructing the necessary level of these capital-intensive investments and/or their connection to the power grid."

"Moreover, no sizeable solar PV generation projects have been sited anywhere in New York State," Central Hudson added.

"Clearly, NYSERDA's administration of hundreds of millions of dollars in funds annually from the Renewable Portfolio Standard has failed to prompt the necessary level of additional construction of renewable generating projects," Central Hudson charged, despite incentives and subsidies.

"Though utilities have an excellent post-deregulation track record of balancing longer-term contracts and spot-market purchases in order to limit price impacts to their customers, they no longer have the ability to directly contribute toward the greater goal of reducing the price of energy supply because they no longer own generating assets," Central Hudson said.

... Continued Page 5

Study: Texas Retail Prices Would Be 20¢/kWh Absent Retail Competition

Prices in the two largest retail markets in ERCOT would exceed 20¢/kWh today under traditional regulation, Susan Tierney of The Analysis Group says in a new study commissioned by Reliant Energy.

Tierney developed a proxy regulated retail price for the Dallas area and Houston area, based on the December 2001 average residential regulated rate of 9.67¢/kWh at TXU and 10.40¢/kWh at Houston Light and Power. Absent competition, residential prices would be double today, Tierney said.

Based on the proxy rate analysis, the regulated residential rate would be 20.28¢/kWh at TXU and 21.67¢ at Houston Light and Power.

That compares to the average August 2008 residential rate (for a one-year term with less than 5% renewables) under competition being only 15.3¢ in Dallas, and 16.1¢ in Houston. The lowest retail price available in August was 13.4¢ in Dallas and 14.2¢ in Houston.

Not only do customers have lower prices under competition, Tierney said, but they have more options than a single regulated product.

The proxy regulated rate was based on the December 2001 rate adjusted for:

- Changes in fossil fuel prices (to reflect the expectation that regulated rates would have included a fuel adjustment clause that would have permitted changes in fuel prices to flow through to customers), taking into account the mix of fuel costs used to generate electricity;

... Continued Page 5

Constellation Says Michigan 10% Choice Cap Only Applies to Bundled Supply Sales

The 10% cap on electric choice sales in Michigan only applies to an electric utility's existing bundled energy supply load, and does not encompass the energy load served by alternative electric suppliers, Constellation NewEnergy argued in comments before the Michigan PSC (U-15801).

Constellation based its conclusion on statutory construction, drawing a distinction between "retail sales," which CNE concluded encompass only bundled supply service sales, and total utility sales. Since legislative provisions set the choice limit at 10% of a utility's retail sales, current choice sales should be excluded and not counted towards the 10%, Constellation said.

Constellation argued its view is consistent with the underlying goal of the limitation --- predictability for utilities in load -- since utilities would still know that during the year, only 10% of their bundled supply sales would be eligible for choice.

Under Constellation's reading of the law, choice customers as of October 6, 2008 (the effective date of the Act) would be exempt from the 10% cap, as would choice customers seeking to expand usage at a facility that has been continuously served through an alternative supplier since April 1, 2008, or any new facility that is similar in nature.

A "facility" means a customer location that can be more than a single structure or single metered account, Constellation contended. Consumers Energy and Detroit Edison, however, countered that statute contemplates a facility is defined as the building or buildings served through a single existing electric billing meter at a single site served by an alternative electric supplier.

Based on the most current available data, CNE said the PSC should find that a total of 7,367.9 GWh of load is eligible to choose an alternative supplier in the Detroit Edison service territory in 2009, and a total of 5,109 GWh of load is eligible to choose an alternative supplier in the Consumers Energy service territory in 2009. Those figures are the total of the current load served by competitive suppliers plus 10% of current bundled supply service.

Utilities proposed that all sales be subject to the 10% cap, not just current bundled supply sales, with a three-tiered priority for customers' ability to shop: 1) Customers shopping continuously since April 1, 2008; 2) Customers shopping continuously since October 6, 2008, and 3) Customers not shopping continuously since October 6, 2008.

Both utilities and marketers suggested that any customers that need to be moved from choice sales back to utility service due to the 10% cap being exceeded should be moved based on an entire customer's load at a time, on a last-in, first-out basis. The last-in, first-out method, rather than pro-ration of all customer loads to meet the 10% cap, will minimize the number and amount of choice sales subject to disruption, Energy Michigan noted.

Energy Michigan also argued that Article 1 § 10 of the Constitution prohibits enactment of laws which impair contracts, which prevents the Commission and utilities from interfering with, eliminating or reducing electric choice service contract arrangements in effect as of October 6, 2008, regardless of whether the 10% cap is exceeded in the future.

Consumers Again Seeks to Allocate Residential Subsidy Costs to Shoppers

Consumers Energy again proposed making retail open access customers subject to paying the current residential subsidy through higher distribution rates, and also sought to extend the residential rescission period to 30 days in a new rate case filed with the Michigan PSC (U-15645).

C&I customers served by alternative suppliers currently pay cost-based distribution rates, but Consumers proposed allocating to them costs related to residential rate subsidies, due to the "artificial competitive advantage" created by the current treatment. The PSC rejected such a proposal in Consumers' recent rate case decided in June (Matters, 6/11/08).

Under Consumers' new proposal, instead of proposing that retail access customers be required to contribute an equal share of the subsidy that full service C&I customers pay, Consumers proposed that retail access C&I customers be assessed a share of the subsidy at a level that would represent the portion of costs attributable to distribution services.

"This effectively eliminates any opportunity for [retail access] customers to subsidize generation services being provided by Consumers Energy," Consumers said.

The allocation would be derived by determining the pro-rata share of the distribution-related revenue requirements to total revenue requirements, and applying that percentage to determine the amount of the subsidy that should be assessed to retail access customers.

Consumers also suggested expanding the current three-day residential rescission period to 30 days, arguing three days is not enough time for customers to be mailed enrollment notification and to make a cancellation decision. A 30-day period is currently used in Consumers' gas choice program, the utility noted.

Consumers would further change its retail access tariff to specify that the load profiles used are the rate class profiles approved by the Commission as used by the Company in its planning and cost of service analysis, and that those same profiles are to be used by competitive retailers in developing the schedule for their load. Actual energy consumption of the retailer's profiled customers will be reported via the Meter Data Management Authority (MDMA) to the Midwest ISO using these profiles. Consumers would remove the energy imbalance section of its tariff since the Midwest ISO markets makes that portion of the tariff obsolete.

The profiling changes would boost transparency, as both Consumers and retailers will use the same rate class profiles, Consumers said.

Consumers forecasts retail access active load of 390 MW by year-end 2009, though the figure does not reflect the impact of recent legislation on the terms and conditions of the choice program.

Calif. ALJ Backs SDG&E Miramar Plant

A proposed decision from a California PUC ALJ would allow San Diego Gas & Electric to enter into an Engineering, Procurement and Construction contract with Wellhead Services to build the Miramar Energy Facility II, which will later become owned and operated by SDG&E (A. 08-06-017).

While the ALJ expressed concerns about SDG&E's procurement (Matters, 7/24/08), the draft decision ultimately concurs that there is an "acute need" for local capacity in SDG&E's service territory by summer 2009 given the delays associated with a number of generation projects currently under development. Miramar II, a 46.5-MW peaker, will provide peaking energy and capacity that will contribute to SDG&E meeting its local and system resource adequacy requirements, the ALJ said.

"While we considered the arguments raised by intervenors that his [sic] project was not chosen in a competitive RFO and does not neatly fit an enumerated exception to the RFO requirement, we find that it would not be in the best interest of SDG&E's bundled ratepayers to reject this project just because of the procurement process issues," the ALJ determined.

Still, the ALJ concluded it was "clear" that Miramar II was not a winning bid from the 2008 Peaker RFO, sharing some of the concerns raised by power marketers.

"[T]he relationship between the RFO and [Miramar] II is very tenuous at best and does not give the Commission and the other parties any assurance that the resource and price were the result of a fair, open, and vigorous competitive

MidAmerican Asks to Bundle De Minimis Gas Charges in Illinois

MidAmerican Energy asked the Illinois Commerce Commission to roll two legacy transition charges into its Non-commodity Gas Charge effective with the January 2009 billing, given the de minimis amounts involved in the charges.

MidAmerican currently applies four separate Gas Charges to all therms of natural gas delivered during a given month -- the Commodity Gas Charge, the Non-commodity Gas Charge, and two transition cost charges that are also non-commodity gas charges, the Gas Supply Realignment (GSR) Gas Charge and the All Other Transition Costs Gas Charge.

The two transition cost charges were established in the 1990s to recover costs associated with the transition of the natural gas industry to open access. The charges are no longer relevant components of the cost of Gas Supply because natural gas transmission pipelines have ceased directly billing these costs, MidAmerican said.

Combined, both charges total $0.0003 of a $0.7288 Price Per Therm on MidAmerican's Rider No. 5, Cost of Purchased Gas Adjustment tariff. During 2007, both charges combined totaled less than $5,000 out of an entire gas cost exceeding $60 million.

Instead of billing the two transition charges separately, MidAmerican would include any remaining balances as of December 31, 2008 as part of the non-commodity demand reconciliation.

Briefly:

Pepco Proposes One-Time Credit from Excess Panda Funds

Pepco customers in Maryland are to receive $27.3 million in additional generation divestiture benefits from funds left over from the Mirant settlement after Pepco paid Sempra Energy Trading to assume its obligation under the above-market long-term Panda-Brandywine PPA (Matters, 6/24/08). Combined with about $1.6 million in previous under-disbursements of customer benefits, Pepco proposed a one-time $0.00190/kWh credit for customers during the January 2009 billing cycle in a filing with the Maryland PSC.

N.Y. PSC Grants UBP Filing Extension

The New York PSC has granted an extension for ESCOs to submit revised sales agreements and sample sales rep ID badges, extending the deadline to January 5, 2009, instead of November 26 (Matters, 11/14/08). All sales agreements, regardless of customer size, must now include a new Customer Disclosure Statement on the front and conform to other new provisions of the Uniform Business Practices.

EGP Energy Solutions Gets Md. Gas Broker License

The Maryland PSC granted a gas broker license to EGP Energy Solutions, doing business as Atlantic Energy Resources, for C&Is at Baltimore Gas and Electric, Washington Gas Light and Columbia Gas (Matters, 9/4/08). EGP, which recently won an electricity broker license (Matters, 8/25/08), was founded by two former NCG Energy Solutions managers, Kenneth Abner and Patrick Hall.

Pepco, Suez Marketers Win Defense Contracts

Pepco Energy Services won an $11 million, three-month contract to provide electricity to U.S. Army and other federal facilities, including the Aberdeen Proving Grounds, Walter Reed Medical Center and Fort Monmouth. The Defense Energy Support Center had received 16 responses to the solicitation. Suez Energy Resources NA won a $7 million deal to provide electricity for Dyess AFB, Texas, for 24 months, beating out 12 providers.

Ameren Capacity, Ancillary Purchases Approved

The Illinois Commerce Commission approved the Ameren Illinois utilities' request to extend ancillary service agreements with their affiliates for a period not to extend past March 31, 2009, or the start of the Midwest ISO Ancillary Services Market, whichever first occurs (Matters, 10/13/08). The extension is needed due to the delay in the ancillaries market, and because holding a short-term RFP would be infeasible due to timing and difficulty in attracting bidders for short-term products. The ICC also granted Ameren authority to purchase and sell short-term capacity via a competitive RFP when needed to (1) acquire capacity for customers on real-time pricing or to supply customers included in the most recent ICC approved procurement plan, and (2) acquire capacity for Local Balancing Authority reliability purposes (Matters, 9/12/08).

Duke Scales Back Generation Transfer Application Per Settlement

As contemplated by a previously filed settlement in its Ohio electric security plan application (Matters, 10/29/08), Duke Energy Ohio amended its application at FERC to transfer certain generation assets to its merchant affiliate, withdrawing its application to transfer plants currently used in its Ohio ratebase (EC08-78). Instead, Duke is only seeking authorization to transfer gas-fired plants acquired in the Duke-Cinergy merger that have never been in ratebase, pending PUCO approval.

FERC Extends Ban on Circuitous N.Y. Power Flows

FERC accepted the New York ISO's proposal to extend the prohibition of using certain circuitous transmission paths around Lake Erie, which otherwise would have expired November 18, to prevent gaming witnessed earlier this year (Matters, 11/4/08).

FERC OKs Bank of America-Merrill Lynch Deal

FERC approved the sale of the jurisdictional facilities of Merrill Lynch to Bank of America, including market-based rate tariffs, wholesale power sales contracts and associated books and records owned by subsidiaries of both companies.

Central Hudson ... from 1

"Public policy makers must realize that New York's investor-owned utilities possess the singular ability to both construct renewable-source generation and equitably spread the expense of these large projects into the future when their full benefits will continue to be enjoyed by succeeding generations of New Yorkers," the utility continued.

"Just as the agreements that resulted from the Competitive Opportunities Proceeding of the late 1990s allowed utilities to retain ownership of small, existing renewable units (e.g. Central Hudson's Sturgeon Pool hydropower facility), so too, must the state now recognize that utilities can and should invest in new, small-scale renewable projects for the greater good," Central Hudson concluded.

The small size of the solar facilities would mitigate any market power concerns, Central Hudson insisted.

Central Hudson also said that New York should look to "PPL Electric Utilities" as an example of how a "regulated electric utility" is successfully fostering new sources of power. As claimed by Central Hudson, PPL Electric Utilities has built new power plants fueled by clean-burning natural gas, increased the number of hydroelectric dams in its generating portfolio, entered a partnership with the developer of a wind farm, and promoted and installed fuel cells that produce clean energy from hydrogen in the last few years. While Central Hudson did not list specific facilities, it seems PPL EnergyPlus, or other competitive subsidiaries, are undertaking such initiatives, not PPL's regulated utility for a rate of return.

Texas Prices ... from 1

- Changes in labor-related portion of the rates (to reflect an expectation that rate cases since 2001 would have allowed for changes in labor-related expenses), with the labor costs in 2001 updated based on the Handy-Whitman Index for labor; and

- Changes in the capital portion of base rates (to reflect the expectation that service-territory growth would have led to investments in new plant), using a method that started with net plant in service as of 2001, adjusted for cost increases based on the Handy-Whitman Index for utility plant.

Tierney also noted that wholesale and retail price increases in Texas are to have been expected given its dependence on gas-fired generation, as well as higher input and raw material costs for new generation plants. However, Tierney did not compare the costs of rises in Texas power prices given these factors to rises in regulated states.

Tierney's analysis also listed a litany of qualitative factors showing competition has worked, such as ease of entry, multiple competitors and products, new generation and transmission investment, and environmental benefits.

One reason cited for Texas' success in migration of customers to competitive supply, which comes as no surprise, is the direct relationship REPs have with customers, through direct billing and the requirement new customers choose a REP for service initiation. That direct relationship, including the ability to disconnect customers, allows REPs to interact with customers, "in a manner similar to more traditional competitive industries," Tierney notes.

It is not surprising that customer awareness, and thus migration, lags in other states, even those with favorable default service regulations, given the lack of direct relationship between supplier and customer, which in some cases retailers have either given up (or have asked to) in exchange for having their collections risk eliminated through Purchase of Receivables on utility consolidated billing. Retailers should question the long-term viability of POR markets, which reduce competitive service to a line item, sans logo, on a utility bill and hinder customer identification of their supplier.

Market enhancements suggested by Tierney include the move to nodal which will provide improved price transparency and locational price signals, and development of vibrant demand response from consumers. Managing the impact of intermittent renewable generation, improved transmission planning, maintenance of strong market monitoring, and development of appropriate methods to manage and price transmission congestion in the absence of a nodal market were also cited as possible improvements.

Tierney, former Commissioner at the Massachusetts DPU, will serve as a co-lead of the Department of Energy review group for President-elect Barack Obama's transition team.