Energy Choice Matters

November 19, 2008

Texas Senators Question Nodal "Debacle"

Texas state senators called ERCOT's ongoing nodal project a "debacle," decrying ERCOT's intent to burn through $12 million per month next year on the project even as a new go-live date is indeterminate.

At Monday's ERCOT board meeting, board members agreed to apply for a higher interim relief nodal fee of 38¢/MWh, more than double the current 16.9¢.

Sen. Troy Fraser, Chair of the Business and Commerce Committee, blasted ERCOT's open-ended, cost-plus contracts with nodal vendors, as well as the best-in-class intended design of the system that has led ERCOT to pursue mixing various products from different vendors -- which was likened to putting a Ferrari engine on a GM chassis. Senators, during a hearing on the state of the industry prior to next year's session, also chastised ERCOT for entering into contracts prior to having a finished product design in mind, which led to the open-ended contracts.

Nodal's price, which has climbed from a $125 million initial cost (that did not include go-live functionality) to $267 million to now likely in excess of $600 million, prompted the PUCT to conduct a new cost-benefit analysis of the nodal market (Matters, 9/12/08). If the nodal project goes forward, ERCOT likely won't name a new go-live date until February or March of next year, with a go-live date possible sometime into 2010.

PUCT Chairman Barry Smitherman "absolutely" has a level of discomfort with the current state of the nodal project, he told senators. Fraser said legislators simply can't live with an open-ended nodal process, and demanded ERCOT get together with its vendors to change the open-ended contracts.

Turning to the retail market, Smitherman pointed to the trend in falling balancing energy prices, and retail rates, as showing that retail prices are absolutely correlated to natural gas. Until more non-gas generation is built, or demand is reduced, that pricing correlation will persist, Smitherman noted.

Marcie Zlotnik, President of StarTex Power, argued that the Commission must do more to protect POLR providers, while still helping customers during the transition, through the possible waiver of

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Market Pricing More Favorable Than Duke ESP Absent Bypassable Charge for Residents, OCC Says

Duke's electric security plan (ESP) can only be found to be more favorable than a market rate option if residential customers in governmental aggregations can bypass rider SRA-SRT (market capacity purchases) and receive a 6% shopping credit equal to rider SRA-CD (capacity dedication), the Ohio Consumers' Counsel said in testimony on a Stipulation signed by most parties to Duke's ESP case (08-920-EL-SSO).

The Stipulation would only extend the bypassabiltiy of SRA-SRT and the shopping credit to non-residential customers, on the basis that shopping customers would be exposed to market pricing should they choose to return to Duke for supply service (Matters, 10/29/08). The Stipulation finds that the risk of putting returning residential customers on potentially volatile and high market pricing is too great, and thus Duke would maintain system capacity for their potential return, which customers would have to pay for while shopping.

That rate design makes shopping residential customers pay the same costs twice, since customers would pay Duke for "back-up" capacity in riders SRA-SRT and SRA-CD, while also paying their competitive supplier for their actual capacity charges, OCC said. Under a market rate option, customers would not face such double payment of capacity charges, OCC reasoned, thus making the market rate more favorable than the ESP.

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CL&P, UI Post 2009 Retail Rates

Connecticut Light and Power and United Illuminating filed new standard service and last resort service rates to start January 1 with the DPUC, as approved in recent solicitations.

Connecticut Light & Power (all prices in ¢/kWh)
Standard Service January - June 2009

	GSC	FMCC-Generation	Total Generation
Rates 1, 5	11.667	0.550	**12.217**
Rate 7			
On-Peak	14.268	0.550	**14.818**
Off-Peak	10.768	0.550	**11.318**
Rate 18	11.948	0.550	**12.498**
Rate 21 (< 500 kW)	12.016	0.550	**12.566**
Rate 27			
On-Peak	14.043	0.550	**14.593**
Off-Peak	11.043	0.550	**11.593**
Rates 29, 30, 35	11.948	0.550	**12.498**
Rate 37			
On-Peak	14.043	0.550	**14.593**
Off-Peak	11.043	0.550	**11.593**
Rate 40	11.948	0.550	**12.498**
Rate 41 (< 500 kW)			
On-Peak	14.215	0.550	**14.765**
Off-Peak	11.215	0.550	**11.765**
Rate 55 (< 500 kW)			
On-Peak	14.215	0.550	**14.765**
Off-Peak	11.215	0.550	**11.765**
Rate 56 (< 500 kW)			
On-Peak	14.215	0.550	**14.765**
Off-Peak	11.215	0.550	**11.765**
Rate 115	11.948	0.550	**12.498**
Rate 116, 117	10.745	0.550	**11.295**
Rate 119	12.016	0.550	**12.566**

Last Resort Service, January - March 2009

	Last Resort Service (¢/kWh)		
	GSC	FMCC-Generation	Total Generation
Rates 21, 39			
January	11.740	0.550	**12.290**
February	11.784	0.550	**12.334**
March	10.147	0.550	**10.697**
Rates 41, 55, 56, 57, 58			
On-peak			
January	12.835	0.550	**13.385**
February	12.551	0.550	**13.101**
March	10.750	0.550	**11.300**
Off-peak			
January	11.317	0.550	**11.867**
February	11.483	0.550	**12.033**
March	9.916	0.550	**10.466**

United Illuminating (all prices in ¢/kWh)
Standard Service
Generation Services Charge (GSC)
January - June 2009

Class	Rate	On-Peak	Off-Peak
R	12.7083	---	---
RT		15.5510	12.0510
GS	12.6249	---	---
GST		14.6457	11.6457
LPT		14.7257	11.7257
M	12.7512	---	---
U	12.7512	---	---

Generation Services Charge (GSC)
July - December 2009

Class	Rate	On-Peak	Off-Peak
R	11.9083	---	---
RT		14.6159	11.1159
GS	11.8831	---	---
GST		13.9357	10.9357
LPT		14.0266	11.0266
M	11.7679	---	---
U	11.7679	---	---

Last Resort Service
Generation Services Charge (GSC)

Month	On-Peak Rate	Off-Peak Rate
January	10.5247	10.5247
February	10.6199	10.6199
March	9.1853	9.1853

Md. PSC Opens Rulemaking on Treatment of RECs from De-certified Facilities

The Maryland PSC initiated RM36 and set a rulemaking session for January 6 to consider a proposal from Baltimore Gas & Electric to mitigate the risks LSEs face in signing long-term contracts, with a required lump-sum upfront payment, for Level 1 solar RECs.

BGE has expressed concern that buying RECs on long-term contracts opens LSEs to the potential that the REC generating facilities may become de-certified, leaving the LSE paying for nothing.

The Commission is to consider adding a provision to COMAR that would hold that Level 1 solar RECs sold to an LSE before the date of decertification of a renewable energy facility would remain Maryland-eligible.

The PSC asked for comments on whether

legislators intended for Level 1 Solar RECs, purchased by an LSE with a lump-sum payment under a 15-year contract, to remain viable under decertification during the 15-year period. Comments are due December 16.

Briefly:

Gateway Enters Ontario Gas Market

Gateway Energy Services is entering the Ontario retail gas market, with sales and marketing to commercial customers starting later this month. Gateway set up an office outside of Toronto, with General Manager Victor Loayza, formerly of the Ontario Energy Board, leading the effort. Gateway said it is still developing its product offerings, but will be supplied by Sempra Energy Trading.

Calif. Draft Says POR Outside Scope of SCE Rate Case

A proposed decision on Southern California Edison's general rate case would find that a proposal from the Alliance for Retail Energy Markets to institute Purchase of Receivables at SCE, as well as Pacific Gas & Electric and San Diego Gas & Electric, falls outside of the scope of the proceeding, and would not adopt AReM's recommendations (A. 07-11-011, Matters, 8/12/08, 7/31/08).

PUCT Sets Workshop on CREZ Dispatch, Excess Wind

The PUCT has scheduled for December 12 a workshop regarding Competitive Renewable Energy Zone dispatch priority, and potential excess wind resources in ERCOT. The workshop is to review issues raised in written comments on dispatch priority, and Staff invited stakeholders to submit agenda items by November 19 (docket 34577, Matters, 9/30/08).

N.Y. PSC Sets Eight UBP Working Groups

The New York PSC has set up eight working groups to address Phase II issues in its review of Uniform Business Practices (Matters, 11/17/08, 11/14/08). The working groups are: Reverse Slamming; Access of Retail Access/ESCO Referral at initiation of service; Customer Complaint Rate; ESCO Consolidated Billing; Provision of Tax Data to ESCO; Direct Marketing/Provision of Customer Lists; Price Reporting Requirements; and Access to Gas Capacity.

National Grid to Lower R.I. SOS Rate

National Grid has applied to lower its Rhode Island SOS rate from 12.4¢/kWh to 9.5¢/kWh, due to lower fuel index payments in its supply contracts. Grid also applied for a transmission service adjustment factor of 1.064¢/kWh.

PUCT Proposes Extension of Estimated Read Smoothing Rule

The PUCT would extend through Jan. 1, 2009, the current emergency rule requiring the smoothing of estimated meter reads in counties affected by Hurricane Ike, under a proposal to be addressed at Thursday's open meeting. The extension is required because the gubernatorial disaster declaration cited in the current emergency rule expired November 6. The rule requires utilities obtaining actual meter reads after a period of estimates due to the hurricane to allocate any over- or under-estimated usage in a manner that takes into account periods that the customer was not likely to have been taking service.

Texas ... from 1

additional deposits and TDSP fees. The disconnection moratorium imposed on REPs in the wake of Hurricane Ike harmed retailers, Zlotnik reported, citing one large C&I customer of StarTex that had been on a deferred payment plan prior to the moratorium but then used the moratorium to stop paying charges and ultimately switched providers. StarTex's weekly cashflow was down 75% in the immediate aftermath of Ike, Zlotnik said.

Investment grade ratings do not mean a REP will be more successful or stable in the market, Zlotnik added, pointing to troubles faced by some larger REPs recently. Zlotnik is concerned a PUCT proposal to set up different certification requirements for investment grade REPs could restrict entry, reducing innovation and competition which keep prices low. Business decisions and management are better indicators of a REP's viability than invested capital, Zlotnik said.

Smitherman told lawmakers that Staff will take a holistic view of PURA to determine what authority the Commission has over the merger of competitive generators in ERCOT, aside from the statutory prohibition against one market participant controlling more than 20% of capacity. Senators expressed concern about a possible merger between Exelon and NRG Energy, and whether a merger could decrease desired nuclear development as both generators are currently planning for new nuclear units in ERCOT. Smitherman noted PURA does not give the Commission much discretion on such mergers, as the law suggests that the Commission must approve deals that come in under 20% of the market's capacity, though Staff will review the statute. As Exelon has suggested it would likely need to shed some ERCOT capacity post-merger due to market power concerns, Smitherman said the Commission will have to determine how to measure a company's capacity for purposes of the 20% cap, with questions of how to treat wind capacity and purchased power up for debate.

Smitherman told lawmakers he expects AEP to file with the Commission an advanced metering deployment plan before the end of the year. Sen. Leticia Van de Putte said she's received concerns about why REPs would be interested in helping customers reduce usage through advanced metering, since they are compensated on throughput. Smitherman noted REPs see new products, particularly Time-of-Use products, available under advanced meters as giving them differentiation in the market, which will ultimately attract more customers and more sales, although individual customer consumption may decrease.

Senators also expressed concerns about how an ERCOT subcommittee was able to change the shadow price cap, which led to price spikes in May and June that drove several retailers out of business, without approval from TAC, the Board, or the Commission, although ERCOT said the process has been changed so that cannot happen today. ERCOT's decision to invest market participant's cash into The Reserve also drew criticism, while senators directed the Commission to be vigilant about maintaining ERCOT's independence in the face of a possibly larger federal role in transmission under the new administration.

Consumer groups recommended a number of market changes that would severely impact REPs' business models.

Carol Biedrzycki of Texas Ratepayers' Organization to Save Energy proposed that REPs be required to pass-through any reduction in TDSP charges to their customers, and that REPs be required to allow customers to freely switch among products offered by the same REP.

Biedrzycki and Tim Morstad of AARP demanded greater disconnection protections, with Biedrzycki reporting REPs disconnected 302 critical care customers during this summer. Morstad favors a permanent solution to protect the most at-risk populations from disconnection, or at least a change from using National Weather Service heat advisories to actual temperatures as the trigger for current disconnect protections, since Morstad said locally declared NWS advisories are unreliably issued.

REPs should be forced to use a standardized contract, Morstad told lawmakers, and should not be allowed to impose barriers to switching, such as deposits. Biedrzycki suggested requiring all REPs to offer a product with an average, non-time-based rate, as she fears Time-of-Use prices will become the default product for many REPs once advanced meters are implemented. Biedrzycki claims REPs are being subsidized by TDSP funding of advanced metering web portals.

The Association of Electric Companies of Texas shared with legislators information rebutting the study released by the Cities Aggregation Power Project that claimed deregulation has caused Texas rates to rise from below the national average to above the national average (Matters, 10/17/08).

AECT said that Texas had the 14th-highest average electric rates in the country just prior to the start of competitive choice in December 2001, and has maintained virtually the same ranking (15th, based on the latest EIA data) despite the run-up in natural gas prices. CAPP's study used only residential rates, starting in 1999 and ending in 2007 rather than this year.

Among states with predominantly natural gas-fired generation, Texas has the 6th-lowest average residential electric price, according to the most recent EIA data, AECT said.

AECT also pointed to a NorthBridge Group study showing rate increases in gas-dependent restructured and regulated states from 1997-

2007 have tracked each other very closely.

In many cases, some Texas municipals and co-ops have had similar price increases to those seen in the competitive market, AECT noted.

Duke Ohio ... *from 1*

Each residential customer would save an estimated average of $40 per year if they could bypass rider SRA-SRT, OCC said.

With recent falls in energy prices, OCC believes market prices may be lower than what is contained in Duke's ESP application, which was drafted when prices were much higher this summer. "Residential customers need an exit ramp," from potentially higher ESP prices, and are no less deserving than commercial customers, OCC contended.

OCC argued SB 221 places the burden of proof on Duke to demonstrate that nonbypassable charges will not impact the viability of governmental aggregation, and claimed Duke has failed to address that burden. OCC also views the capacity charges as *de facto* standby charges which are prohibited by law.

However, Duke countered that OCC has not offered any evidence as to the price effect, reliability effect, cost effect, or any other potential impact on customers, or Duke, from its alternate proposal. OCC had suggested that shopping customers returning to Duke supply service pay 115% of the ESP rate, rather than variable market-based rates. Duke also dismissed OCC's claims that providing the credit and bypassable charge to only C&I customers is discriminatory, as Duke noted legal precedent states that PUCO may approve different options for customers where the customers are differently situated.

The only other issue in dispute in the Stipulation is the option for mercantile customers to avoid Duke charges for energy efficiency measures where mercantile customers undertake such measures on their own.

Industrial Energy Users-Ohio claims Duke's proposal wrongly restricts the ability of mercantile customers to avoid the charges through self-provision of efficiency measures by allowing only customers above 3 MW to seek an exemption from the fees. IEU argued the 3 MW cutoff is unsupported and that SB 221 contemplates that all mercantile customers are to be allowed to apply to avoid the charges.

IEU also opposed Duke's requirement that customers applying to avoid the energy efficiency surcharge must provide energy efficiency and/or peak demand reduction savings "equal to or greater than" Duke's benchmark requirement.

Duke responded by contending the applicable statutory language "clearly" demonstrates that the exemption is permissive, not prescriptive. Thus, additional requirements, such as a 3 MW cutoff or other eligibility conditions, are permissible, Duke said, and are necessary to ensure Duke does not fall short of legislative goals and incur penalties.