Energy Choice Matters

December 1, 2008

RESA Urges Changes to Expand Use of IDR Data at ConEd

Consolidated Edison's current billing practice of using class load shape data rather than interval data recorder (IDR) measurements when readings are outside of a narrow tolerance range is unreasonable and inconsistent with stated policy goals of price and usage transparency, the Retail Energy Supply Association said in a brief on ConEd's rate case (08-E-0539, Matters, 10/6/08).

ConEd's system currently has 904 large time-of-day customers served with hourly interval meters, accounting for 3,076 MW of electric load. Such customers have interval meters that record 15-minute interval data, which provide more accurate information concerning the cost of electricity associated with customers' specific usage patterns. The New York ISO can also more accurately assign hourly energy costs to Load Serving Entities with such interval data.

When billing such interval customers, ConEd's system performs a tolerance check between the billed consumption (i.e., the actual reading from the meter obtained by the meter reader) and the IDR consumption. If the IDR consumption is plus or minus 4% of billed consumption, then the billing system assigns hourly values using the actual IDR data. However, if the IDR consumption is not plus or minus 4% of billed consumption, the system assigns hourly values using the load shape methodology which reflects the overall class rather than the actual data taken from the IDR.

Furthermore, all of the IDR data is disregarded even if only a portion is erroneous or inconsistent with the data derived through billed consumption.

The use of generic load profiles conflicts with the New York PSC's desire to show customers the

... Continued Page 4

Energy Michigan Seeks Elimination of Dec. 1 Return Deadline in Michigan

The requirement for choice customers in Michigan to give notice before December 1st of their intent to return to utility full service during the succeeding summer months should be eliminated given legislation which caps retail choice sales at 10% of a utility's load, Energy Michigan told the PSC (U-15897).

Both Detroit Edison and Consumers Energy require choice customers who wish to return to utility service during the summer (June 1 through September 30) to provide notice to the utility on or before December 1. Choice customers who wish to return to utility service during periods other than the summer need only provide 60 days notice.

The notice requirement no longer serves a useful purpose for the utility since the amount of returning choice customers during any given summer would be very small, or non-existent, Energy Michigan pointed out.

"On the other hand, the December 1 deadline is a burden to Choice customers because it virtually requires Choice customers to lock up their power supply requirements for the coming year up to eight months before the power is needed," Energy Michigan noted.

The December 1 deadline was adopted because the Commission wished to give large electric utilities some certainty regarding the load that would be served during the summer when power purchases are extremely expensive. Utilities also fear customers would take choice service during periods such as fall, winter and spring when market prices are at their lowest in Michigan, and would return to utility service in the summer at average rates when market prices are substantially higher.

... Continued Page 5

FirstEnergy Rebuts Opposition to FERC Affiliate Waiver

FERC should refrain from making an independent determination on the efficacy of PUCO's implementation of Ohio's retail access law, several FirstEnergy wholesale marketers said in a docket concerning a waiver request for affiliate sales between the wholesalers and FirstEnergy's Ohio distribution companies (ER09-134, Matters, 11/14/08).

FirstEnergy has sought the waivers because the distribution companies' current supply agreement with FirstEnergy Solutions expires at the end of the year. FirstEnergy Solutions would supply the distribution utilities under the utilities' proposed Electric Security Plan, and the FirstEnergy wholesalers may also be used in any stop-gap supply procurement used by FirstEnergy in the event PUCO does not rule on a post-2008 default service plan by the end of the year.

NOPEC and the Ohio Consumers' Counsel have objected to the waiver of FERC affiliate rules because Ohio's retail customers are effectively captive, with no competitive suppliers currently offering retail service. FirstEnergy is predicting zero competitive retail sales in its territories for 2009.

However, judging the efficacy of Ohio's retail choice program, "would be totally contrary to [FERC's] recent affirmation that it will not assume the role of evaluating the success or failure of state retail programs in analyzing whether retail customers are 'captive' for purposes of waiver determinations," the FirstEnergy wholesalers said.

Under the terms of their existing market-based rate tariffs, however, the FirstEnergy wholesalers would be effectively precluded from implementing a PUCO decision approving an Electric Security Plan that would involve affiliate sales, or from engaging in an interim competitive procurement process to ensure that the distribution utilities have power to serve their customers, FirstEnergy noted. Denying the requested affiliate waivers would merely constrain the supply options available to the distribution utilities, to the detriment of retail customers, the FirstEnergy wholesalers argued.

Given the timeframe of PUCO's default service review, the FirstEnergy wholesalers cannot wait for a PUCO order before seeking an affiliate waiver from FERC, as suggested by NOPEC, the wholesalers stressed.

"NOPEC's position effectively would require the Applicants to seek after-the-fact authorization for power sales that must begin on January 1, 2009, thus creating regulatory uncertainty and putting the Ohio Regulated Utilities and their customers at risk," FirstEnergy said.

EnerNOC Says Gross-Up Margin Elimination Could be Discriminatory

EnerNOC protested ISO New England's petition to eliminate the reserve margin gross-up that is applied to the capacity value of demand resources in the Forward Capacity Market, arguing that ISO-NE has failed to support its proposal (ER09-209).

Ameresco has protested the changes as they relate to energy efficiency (Matters, 11/24/08), but EnerNOC's objections extend to the treatment of demand response as well.

ISO-NE is seeking to change certain Market Rule I provisions to eliminate the reserve margin gross-up starting with the 2012/2013 capacity commitment period, which is associated with the October 2009 FCM auction.

The reserve margin gross-up is the practice of increasing the demand reduction value of demand resources by a reserve-margin factor as part of a demand resource's participation in the Forward Capacity Market. The reserve-margin factor represents the Installed Capacity Requirement (ICR) for the New England region divided by the expected system peak load for the region. At present, the reserve-margin factor is approximately 1.15 or 15% above system peak load. In other words, a reserve margin gross-up of 15% would result in a demand resource with a demand reduction value of 1.00 MW receiving a capacity credit of 1.15 MW.

The reserve margin gross-up is intended to reflect the amount of extra system capacity (or reserves) that would not be needed if the system peak load could be reduced with certainty by a perfectly available resource.

EnerNOC's protest mostly hit at procedural points, arguing that ISO-NE has failed to meet its burden in showing the change is just and reasonable, especially as the filing seeks "significant changes" to the Forward Capacity Market without providing the Commission with essential information regarding the impact of such changes.

ISO-NE's filing and supporting testimony, for example, do not address how the changes will impact the acknowledged benefits of demand response, such as reducing costs by avoiding new transmission and generation investment, EnerNOC argued.

"Conclusory testimony about the impact of the elimination of the reserve margin gross-up on the Installed Capacity Requirement ('ICR') is insufficient ... ISO-NE should be required to present an analysis and evaluation that will specifically address the effects of the proposed changes on the ISO-NE market and ISO-NE's existing rate, specifically with respect to system-wide ... reliability, resource adequacy and cost," EnerNOC said.

Such data may reveal unduly discriminatory and/or preferential treatment of other resources as a result of the elimination of the reserve margin gross-up for demand resources, EnerNOC cautioned.

"The Commission should be aware that ISO-NE proposes to continue to apply the reserve margin gross-up for some existing import resources after such gross-up is eliminated for Demand Resources pursuant to the ISO-NE filing. This disparity is not addressed in the ISO-NE Filing and illustrates the shortcomings of the data provided to the Commission in the ISO-NE Filing," EnerNOC noted.

Thus, ISO-NE's proposal may be unduly discriminatory in that it does not eliminate the reserve margin gross-up for similarly situated capacity resources, EnerNOC suggested. The ISO-NE filing does not address the state of the Forward Capacity Market after the elimination of the reserve margin gross-up to demand resources and whether other resources unfairly benefit from such elimination, EnerNOC added.

If the Commission does not reject ISO-NE's filing as deficient, FERC should at least hold a technical conference on the proposal, EnerNOC said.

ELCON: No Evidence Utility Run Efficiency Programs Are Better

"There is no evidence that utility administration of [energy efficiency] programs is better or worse than third-party administration," ELCON says in a policy brief being issued today concerning a review of energy efficiency measures from a ratepayer perspective.

"[T]oo often the debate on energy efficiency is played on a home field shared by utilities and environmentalists, but not consumers. Utilities and environmentalists advocate cost recovery mechanisms which shift the financial risk of these programs to ratepayers," ELCON said in a statement.

Although the policy brief mostly examines cost recovery and rate design of regulated rates, ELCON did state that regulators' decisions to pick the appropriate administrator should be based on minimizing the total costs recovered from ratepayers for the programs.

Ratepayers who make energy efficiency investments at their own expense should be eligible to opt-out from participation in utility programs, ELCON added.

ACC Approves Tucson Electric Power Rate Hike

The Arizona Corporation Commission approved a settlement that sets new commodity and delivery rates at Tucson Electric Power, and also institutes a new Purchased Power and Fuel Adjustment Clause to track changes in such costs.

However, the purchased power and fuel rider will initially be set at zero, as the ACC ordered $60 million in excess funds collected via the competitive transition charge (CTC) to be used to offset increased fuel costs. The rider will be set annually in April, but the excess CTC funds may offset any charges through April 2010.

A proposed cap on the purchased power and fuel rider by Commissioner Kris Mayes was defeated.

The major unbundled rate components for Residential Electric Service (R-01) include the following:

Fuel and Purchased Power:

Summer, all kWhs	$0.033198 per kWh
Winter, all kWhs	$0.025698 per kWh

Generation Capacity

Summer	$0.032938 per kWh
Winter	$0.030271 per kWh

TEP will institute new time-of-use rates as well.

Briefly:

Universal, Commerce Extend Deadline

Universal Energy Group and Commerce Energy have agreed to extend the period of exclusive negotiations regarding the potential sale of five Commerce books to Universal until December 6, to allow time for continued discussions and exploration of alternative structures. The potential sale would include Commerce's Ohio gas customers and Pennsylvania, New Jersey, Maryland and Michigan electricity customers (Matters, 11/13/08).

ConEd ... *from 1*

real costs associated with their electric usage, RESA noted. "Using default load shapes and casting aside the IDR consumption obviously conflicts with this policy and fails to provide consumers and their commodity suppliers with accurate pricing information," RESA said, especially when all IDR data is rejected when only a portion fails the tolerance test.

RESA highlighted the negative ramifications stemming from the current billing mechanism using the following example. In an instance where the IDR consumption exceeds billed consumption by 4%, ConEd, absent some discovery of a blatant technical error, could bill that customer based solely upon load shapes rather than the IDR data. In other words, even if 95% of the IDR data was accurate and meaningful, the customer's bill would simply reflect a default load shape and not real-time data as reflected through the IDR.

"This is an unreasonable outcome and should be avoided under all circumstances," RESA argued. IDR data should be used to the maximum extent possible, and if there is a tolerance band violation, only the erroneous data should be excluded, with the remaining valid IDR data applied in determining the customer's actual bill, RESA contended.

RESA further argued that ConEd should provide ESCOs with hourly loss data by zone rather than the current Unaccounted for Energy (UFE) calculation which reflects one monthly average factor by zone

The losses incurred in the transmission and distribution of electricity ultimately constitute a "material element" in the overall cost of energy incurred by ESCOs as well as retail consumers, RESA said. Customers and their suppliers therefore need detailed information which not only addresses such losses on an aggregate basis, but provides clear indication of how such losses vary over time, usage, and cost changes, RESA reasoned.

The variability of UFE over time, and the fluctuation in system losses by hour, also shows the need for hourly loss data by zone, RESA added. ConEd has indicated that on a system basis, the system hourly loss data by zone could be provided without installing any additional metering or undertaking costly infrastructure improvements, RESA pointed out. "Enabling ESCOs to access such data is entirely consistent with the Commission's desire to ensure that customers receive, to the maximum extent, timely and accurate information concerning the cost their usage actually imposes on the system," RESA concluded.

To further ensure that customers, through their suppliers, receive data that accurately tracks actual usage patterns, RESA requested that ConEd provide ESCOs with access to a customer's full 24-months of historical hourly interval history instead of only the 12 months which is currently provided. ConEd already has such data and RESA believes that it can be provided without incurring any material administrative obstacles. Historical data for 24 months is made available by National Grid, Rochester Gas & Electric, New York State Electric & Gas, and Central Hudson Gas & Electric on each utility's website free of charge, RESA observed.

RESA also objected to ConEd's proposal, supported by Staff, to eliminate $1.6 million in Outreach & Education retail access expenditures incurred during the 2007 historical test year. Under the plan, ConEd will not maintain a separate budget for Outreach & Education expenditures related to Power Your Way or retail access in general.

ConEd and Staff support elimination of the Outreach & Education retail access budget on the grounds that ESCOs, rather than ratepayers, should bear the costs associated with promoting market development. But the test-year expenditures of $1.6 million related to educational rather than promotional activities, RESA stressed. On cross-examination, ConEd witnesses acknowledged that elements such as bill redesign, business and residential events, Power Your Way educational reminder items, and distribution of ESCO lists were clearly educational activities, RESA pointed out.

RESA cited the Commission's recent order in Case 07-M-0458 which held that "[e]xpenditures on the dissemination of such objective [retail access] information would fall within the ambit of usual utility [Outreach & Education] budgets for consumer education purposes." As ConEd has 300,000 new service customers annually, education on ESCO choice will still be needed, RESA said.

On cross-examination Staff clarified that, given the development of retail access in ConEd's service territory, it was no longer necessary to spend ratepayer funds promoting retail access; however, certain educational activities would and should continue.

RESA also reiterated its proposal, made in another case concerning the Market Supply Charge (Matters, 11/3/08), that ConEd should be required to continue its practice of publishing monthly Market Supply Charge estimates. Such information would be more useful to customers than the proposal from Consumer Power Advocates to include the cost of ConEd supply service on all ESCO bills. Consumer Power Advocates' proposal, which is also opposed by ConEd, would create a mismatch by comparing historic utility default prices to current and future ESCO price offers, RESA noted.

"This will not help consumers make better consumption decisions or enable them to better assess the advantages of shopping," RESA said.

Michigan ... *from 1*

"However, recent legislation and regulatory developments have virtually eliminated these concerns," Energy Michigan argued.

The limitation of choice load to 10% of total utility load greatly minimizes the risk that utilities will have to purchase substantial additional summer capacity due to the return of choice customers with only 60 days of notice. Additionally, only a fraction of the maximum 10% choice load is likely to terminate at any given time within a year, Energy Michigan noted.

Choice customers must also take choice service for a minimum of two years, making it further unlikely that a majority of the 10% choice load contracts would terminate during the same summer month of the same year.

Finally, the Commission has ordered implementation of seasonal rates for Consumers Energy. Seasonal rates provide far higher charges during the summer period of June 1 through September 30 than in other periods of the year.

"This rate design therefore contains significant financial disincentives for any Choice customers to return to Consumers service," Energy Michigan explained.

Publication note

Energy Choice Matters published issues on both Nov. 27 and Nov. 28. Please check your inbox if you are returning from the holiday break Stories included:

- Luminant, Staff Submit $15 Million Settlement to Resolve Notice of Violation
- FERC Accepts TPS Test for PJM Regulation Market
- Reliant Won't Proceed with GS, First Reserve Financing
- PUCT Draft Refuses to Impose Price Floor on REP Distributed Generation Purchases
- Cost of Reliability Projects in Entergy ERCOT Integration Triple
- TXU Suggests Study of Demand Ratchets With Eye Toward Removal for Customers Under 50 kW
- UI Reports October Shopping Data
- DPUC Draft Would Reject UI Proposal to Place More Charges in Bypassable FMCC
- PULP Urges Review of ESCO Termination Fees in N.Y.
- Texas RPS Opt-Out Would Not Force REP Pricing Change Under Draft
- California Draft Would Provide Bridge Demand Response Funding
- ERCOT Estimates Doubling of Nodal Budget, Two-Year Delay
- Md. PSC Sets Hearing for Filling Open SOS Positions

The *Energy Choice Matters* Referral Program - Earn $100 Per Subscriber

We hope you enjoy your access to the latest and most wide-ranging and in-depth coverage of competitive energy news in the market, and we need your help to get the word out about Energy Choice Matters. And we're offering cold, hard cash to do it -- $100 for every subscriber you refer to us.

Energy Choice Matters is perfect for competitive retailers, merchant generators, wholesale suppliers, restructured utilities, financial marketers, independent power producers, energy law practices, backoffice vendors, independent system operators, regulators, and anyone else who needs to stay on top of everything in competitive retail and wholesale electricity and natural gas markets.

But we can't reach everyone. That's why we're launching the Energy Choice Matters Referral Program to reward you for clueing in others to the best source for competitive energy news. For every subscriber you refer to us, you receive $100.

Here's how it works:

1. Tell your colleagues about Energy Choice Matters
2. Let them know they can receive a two-week free trial by emailing us at info@energychoicematters.com or calling 954-935-1994 and mentioning your name. This way we can make sure to count them as your referrals.
3. Let them know by mentioning your name when asking for a free trial, they become eligible for our promotional rates, including $200 off the list price for any subscription plan.
4. If your referral subscribes to any subscription plan within 60 days of the end of their free trial, we'll send a check made out to you for $100, upon payment for the subscription. Referrals must mention your name for you to receive your $100.

There's no limit on the number of referrals you can collect, but each new subscriber can only credit one referral when signing up.

If you have any questions, please call us at 954-935-1994