Energy Choice Matters

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# Retail Bid SOS Could Help Overcome D.C. Customer Inertia, Direct Says

A retail bid SOS approach, "could go a long way to overcoming the current bias in favor of staying with bundled utility service," Direct Energy Services said in comments on the District of Columbia's NOPR to codify the existing market rules for wholesale SOS procurements (FC 1017).

Washington Gas Energy Services, in its initial comments, urged the PSC to reconsider the retail bid model (Matters, 12/3/08). Rules for the retail model have been developed, but implementation was shelved in 2004. Under the retail bid model, licensed retail electric suppliers would bid to serve all or a portion of full requirements load for each customer class, but would not be assigned individual customers.

Direct Energy "strongly" supported WGES' comments, arguing that a retail bid model would allow for more robust options to develop for mass market customers (including options that incorporate demand side measures with commodity offerings). The Commission could use the retail SOS structure to pursue other policy goals more effectively than can be accomplished in the wholesale-only structure, Direct suggested.

While load served by competitive supply is 60% in the District, "[a]ll customer groups do not enjoy equal competitive opportunities, however, and mass market customers lag behind larger commercial and industrial customers in the options available to them from suppliers," Direct noted.

The Office of People's Counsel also urged the PSC to investigate alternative models to the wholesale SOS structure, including the retail approach originally supported by OPC in 2004. OPC

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# Midwest ISO Says Duquesne Settlement Can't Break Signed Transmission Owner Agreement

The Midwest ISO Transmission Owners Agreement (TOA) is a contract and, "cannot be fobbed off as a mere inconvenience should a better offer come along," the Midwest ISO said in opposition to expedited review of a settlement among Duquesne Light, PJM and several generators that would see Duquesne remain a PJM member (ER08-194 et. al.).

The settlement provides that the Duquesne zone would participate in the May 2009 RPM auction, for which PJM must post bidding parameters by February 1, 2009. Thus, settling parties requested FERC approval of the stipulation by January 29, 2009.

Duquesne, MISO argued, became a Transmission Owner within MISO when it executed its TOA in August, and thereupon became fully subject to terms of the TOA. Duquesne, thus, must fully comply with its contractual obligations to the members of the Midwest ISO unless and until it formally withdraws from MISO.

The TOA, however, includes a moratorium on withdrawal for five years following the signing of the TOA. Under the TOA, Duquesne could not withdraw from MISO until 2013. The TOA also specifies financial obligations that must be satisfied upon withdrawal, MISO said.

MISO insisted that it was not a jilted suitor, but that it has a fiduciary obligation to its members to enforce the TOA and recover sums rightfully owed to it.

As the main issues in the case, including whether a TO can be in two RTOs simultaneously and whether FERC may authorize breach of a bilateral contract, are ones of first impression, an expedited review is not appropriate, MISO said. Accepting the settlement while reserving such policy questions

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## N.Y. PSC Staff Recommend Changes to KeySpan Balancing Proposal

KeySpan's implementation date for a new gas balancing system is, "not sufficiently aggressive," New York PSC Staff said in recommending adoption of the balancing options developed in a collaborative process, with changes (06-G-1185, 1186).

KeySpan New York and KeySpan Long Island have proposed two separate types of balancing services, monthly and daily. Under KeySpan's plan, there would be two monthly balancing systems, one for firm core customers and one for non-core customers. Monthly balancing would be mandatory for all firm core customers receiving a mandatory assignment of capacity. A similar monthly balancing option would become available to non-core customers that supply their own upstream capacity and do not select the daily balancing option.

KeySpan also proposed a new daily balancing system that will significantly modify the existing program. The new system will provide transporters with internet accessible intra-day usage and nomination data, provide for the end-of-the-month trading of imbalances, and reduced balancing costs associated with a reduced balancing dead band. In the interim, the existing system will be maintained with these changes: implementation of a "no harm, no foul" rule for daily imbalances, a shift to Transco Zone 6 daily midpoint prices for cash-out purposes, and the capability for customers to switch to monthly balancing services during the interim period.

Changes to the daily balancing system would be implemented no later than November 1, 2011.

Staff believes that KeySpan has inadequately demonstrated the necessity for such a distant a startup date, and recommended that the startup date coincide with the completion of the M2M/FSM project in both New York and Long Island (2010). The M2M/FSM Project is a metering upgrade project designed for the capture of real time hourly data from 3,700 KEDNY and 550 KEDLI Temperature Control (TC) customers. The project targets Temperature Control customers who are prime candidates for daily balancing and who may move from sales to transportation service if a system exists which allows their energy manager to provide daily services currently provided by the LDCs.

Staff is also concerned about provisions in monthly balancing proposals from both LDCs that remove monthly trading of city gate imbalances for core and non-core transporters alike. End-of-the-month burner tip imbalances are cashed-out without price tiers because the day-to-day imbalances are supported by swing supply services. Although transporters have not utilized this capability to reduce exposure to cash-outs in the past, this does not mean that these provisions would not be utilized and prove helpful in the future, Staff said.

A real-time daily balancing system must contain an end-of-the-month trading system to work properly, Staff said. Transporters must have the capability to trade with similar market participants to ensure that the system is operated efficiently.

"Reducing exposure to the month end cash-outs will enable participants to manage their imbalances," Staff noted, and the capability of information systems to provide these transactions is critical to daily balancing.

## Conn. Draft Would Prohibit Submetering Designed to Help Distributed Generation

A draft Connecticut DPUC decision would prohibit a developer who is building a new mixed use apartment/retail complex from master- and submetering the development, rather than installing individual utility meters in each unit, because, among other reasons, submetering would deprive customers from their ability to participate in the competitive retail market (08-06-18).

Becker Development has requested authority to master meter/submeter units for a building in United Illuminating's territory, arguing that the arrangement would make a 400 kW fuel cell installed at the site economically viable.

Under the proposal, the landlord would be the master metered account (i.e., UI's customer) and would be responsible for the cost of all electricity provided through the master meter and consumed within the building. Since fuel cells are classified as Class 1 renewable resources, the master metered customer would

qualify under UI's net metering tariffs and would be subject to all service fees and fixed charges that a customer with a Class 1 distributed generation resource would typically pay to UI. As with other Class 1 distributed resources, all electricity generated by the fuel cell would be netted against the customer's UI bill, i.e., the landlord.

Becker sought permission to install and own meters for each end use consumer in the building, and to bill each end use consumer for the electricity consumed at the otherwise applicable and current electric rate of UI. Such charges would be used to offset the costs of the fuel cell.

Without the submetering proposal, Becker said the value of the fuel cell would not be fully captured, as its production exceeds the needs of the landlord for common areas. Excess generation would be seen as flowing to the grid rather than offsetting internal use of non-common areas, which would impact Becker's ability to receive a grant from the Connecticut Clean Energy Fund. The CCEF values projects based on their reduction to the installing party's metered load and does not take into account excess production, to avoid the installation of oversized projects. Thus, even though the full capacity of fuel cell could be consumed by the mixed-use development, without submetering the useful production will be limited to the amount of distributed generation which offsets the smaller common area loads.

Connecticut law generally prohibits submetering in new dwellings with separate cooking facilities, although exemptions may be permitted by application. Master and submetering is allowed at recreational campgrounds and individual slips at marinas, and exemptions have been granted for publicly financed elderly housing under certain conditions.

Becker's application does not meet the standards to grant an exemption for submetering, the draft says.

UI had expressed concern that the proposal would amount to the resale of electricity which is prohibited by Connecticut law, and would amount to the creation of the "Becker Utility Company" as the provider of electric service to the tenants of the facility.

The draft agrees.

"The Department does not possess the legal power to create a new, defacto electric company nor would the Department be able to regulate a multitude of such entities with existing resources. Through the installation of UI meters consumers benefit because they retain the long-standing utility/consumer relationship with concomitant legal protections," the draft says.

Furthermore, "The installation of UI meters will allow all customers to participate in the retail market by choosing to secure generation services from the distribution company or an alternate supplier without the need for additional regulatory oversight," the draft notes. That right would be lost under the submetering proposal.

The DPUC in the case studied whether excess distributed generation for mixed use facilities could be paid retail value, rather than wholesale value, to reflect the fact excess distributed generation from the facility would likely be consumed within the buildings of the mixed-use complex. The draft concludes the Department cannot modify the current net metering standards in the instant case.

## ELCON Says Utility Efficiency Program Must Recognize Industrials' Self-Directed Actions

Following a recent policy brief outlining recommendations for the design of utility energy efficiency programs (Matters, 12/1/08), Electricity Consumers Resource Council yesterday released a second brief addressing the treatment of large industrial customers in utility-run programs.

Utility programs, ELCON noted, are not typically designed to meet the specific needs of a large industrial facility where energy efficiency improvements are intertwined with complex industrial processes and the facility's often unique operational characteristics. Furthermore, utility programs tend to emphasize inflexible mandates without considering whether the intended results can be more cost effectively obtained by other means such as distributed generation or combined heat and power.

Additionally, utility programs typically do not make provisions to reward industrial facilities that make energy efficiency investments on their own, and in some cases such industrials are punished by being forced to subsidize the investments of their competitors or other

ratepayer classes.

Large industrial customers should be allowed to demonstrate that they have implemented self-directed efficiency programs, ELCON recommended. Industrials should be eligible to opt-out from any obligation to pay tariff-based surcharges used to fund utility programs, or alternatively, receive dollar-for-dollar credit to offset or bank revenues collected in any applicable tariff or tariff rider used to fund utility program costs.

Industrials that invest in efficiency improvements at their own expense should be entitled to any energy efficiency certificates (e.g. white tags) imputed from such investments, ELCON recommended.

"Large industrial customers should not be required to pay for the so-called system benefits alleged from energy efficiency improvements of other ratepayers unless large industrial customers receive credits for comparable system benefits resulting from all energy efficiency investments they made or make at their own expense," ELCON added.

## New York PSC Opens Case to Review Higher Uncollectibles

The New York PSC opened a proceeding to develop appropriate ratemaking and accounting procedures to help ensure that the utilities most affected by current increases in arrears and uncollectible expenses do not experience an impaired access to financial markets due to the unanticipated increases in arrears (08-M-1312).

While most potential changes are likely to affect the distribution side of the bill, as utilities face greater risk from uncollectibles there, most commodity rates include an uncollectible component as well, which may be reviewed in the case.

The PSC reported the number of residential gas and electric customer accounts in arrears for more than 60 days in October 2008 was about 32,000 higher than the same measurement taken in October 2007 (3.25% higher), and that total arrearages increased by approximately $93 million (an 18.7% increase).

On the commodity side of the bill, most New York utilities collect a certain percentage added to the cost of commodity charges to recoup uncollectible expense. Thus, they do not face significant financial exposure from increases in uncollectible expense related to increasing commodity costs because, as commodity costs go up, so does the amount recouped for uncollectibles. Utilities may face risk from commodity uncollectibles if an increasing number of customers are unable to pay their bills and the uncollectible rate is not reset in a timely manner.

Greater risk is faced on the delivery side of the bill, where utilities generally have a fixed dollar amount built into delivery rates to recover the delivery portion of uncollectible expense. Accordingly, an increase in uncollectible delivery expense created by an increase in the number of customers unable to pay delivery charges is not recovered under current rate provisions.

A few utilities, including Niagara Mohawk, Corning Natural Gas and St. Lawrence Gas have not yet unbundled delivery and commodity uncollectible expense and recover both through base rates. These companies have the greatest potential financial exposure because their entire uncollectible expense is recovered through a fixed base rate cost estimate.

The PSC sought comments on potential measures to address rising uncollectibles, such as (1) quantifying and deferring the return that may be required on utilities' increased working capital needs due to higher than normal 2008-9 arrearages and uncollectible expense and (2) ways utilities might defer uncollectible expense in excess of the level reflected in current rates.

"Any proposals regarding the recovery of amounts deferred should recognize the need to minimize bill impacts and, as such, should consider spreading cost recovery over more than one year," the PSC said.

## Maine Industrials, Co-ops Say Maine Power Connection No Longer Needed

Industrial customers and several cooperatives urged the Maine PUC to dismiss the pending CPCN application for the Maine Power Connection, which would link the Northern Maine market with NEPOOL, citing Aroostook Wind Energy's statement that its wind project should not be considered in connection with the line (2008-256). Industrials also moved that

such evidence be considered in the PUC's investigation of continued participation in ISO New England (2008-156), as socialized cost treatment for the Maine Power Connection has been cited as a benefit of ISO participation.

The Maine Power Connection would be a joint project by Central Maine Power and Maine Public Service, and was touted as increasing access to the isolated Northern Maine market (connected only to the New Brunswick System Operator), as well as facilitating wind development and export of wind from Northern Maine to ISO New England (Matters, 11/26/08).

New evidence from project sponsors show significant stability problems with the project, as well as erroneous system impact studies, industrials and cooperatives said. According to the Industrial Energy Consumers Group, Aroostook Wind Energy, a developer who would use the line to sell power into NEPOOL, has determined its original proposal for 800 MW of wind power to be connected to the line is not economically or technically feasible. Furthermore, Aroostook Wind Energy wrote the Maine PUC a letter stating it would be premature to consider the interplay of its proposed facilities and the Maine Power Connection. Aroostook Wind Energy said its project requires further study and is delaying its originally projected 2010 start date to an undetermined future date.

As the basis for the project -- interconnection with Aroostook Wind Energy -- has been put on indefinite hold, the PUC should dismiss without prejudice the CPCN case, industrials and cooperatives said. At present, there is no project before the Commission for consideration, as other alternatives to reliability connect Aroostook Wind Energy to the grid have not been found.

Dismissal would also reduce costs being collected by MPS and CMP under FERC incentive rate treatment, cooperatives and industrials noted.

## *Briefly:*

**CenterPoint Reports on Pass-Billed Backlog**

CenterPoint Energy reported progress on the "Pass-Billed" account backlog of Usage / Invoice Transactions that have resulted from Hurricane Ike estimations, and has reduced the backlog by approximately 50% since the high point that was reached December 1, it said in a market notice. A small percentage of meter readings have "exceptioned out" of CenterPoint's billing systems due to the actual true-up readings being outside of the normal parameters that have been programmed into the billing systems. That has required each of those readings to be manually reviewed, corrected as necessary, verified, and input into the billing system to generate 867_03 Monthly Usage and 810_02 Invoice transactions. CenterPoint reported nearly 30,000 exceptions, or 1.46% of billings, as of December 15, down from 2.89% on December 1. CenterPoint Energy expects to return to "Normal State" (less than 10,000 or less than 0.5%) before the end of the year.

**ERCOT Trims Reserve Margin Outlook**

ERCOT trimmed its expected 2009 reserve margin to 15.8% from 16.5% due to fewer capacity additions than originally projected. Reserve margins through 2014 are projected to remain above the 12.5% target minimum, growing to 21.2% in 2010 before falling to 15.8% again over the next four years. Over 3,100 MW of capacity have been added to the five-year generation outlook since the May reserve margin report. Due to the changes in economic indicators since May, the projected 2009 summer peak demand forecast decreased to 65,222 MW, from 66,246 MW, and the 2010 peak was lowered to 66,283 MW from 67,641 MW. The reserve margin calculation excludes 4,300 MW of mothballed generation and over 12,000 MW of capacity with in-service dates of 2009-2010 that do not yet have an air permit or signed interconnection agreement.

**Md. Lawmakers Press PSC on Full Re-regulation Costs**

Maryland legislators during a hearing yesterday were predictably skeptical of a PSC report which recommended against returning former utility plants to cost-of-service regulation (Matters, 12/12/08), questioning why the PSC tabulated benefits from such action but could not monetarily quantify the risks, which the PSC said were too high to pursue such re-regulation. Sen. James Rosapepe, D, asked why the report omitted specific cost estimates for such risks, and Sen. Delores Goodwin Kelley, D, was among those looking for a more detailed cost-benefit analysis of returning former utility plants

to the ratebase. Sen. Thomas Middleton, Democratic chairman of the Senate Finance Committee, said senators would like a more "rigorous" analysis of re-regulation. PSC Chairman Doug Nazarian reported that quantifying risks from returning utility plants to ratebase would be difficult, as the risk factors are less tangible than benefits.

## *D.C. SOS ... from 1*

suggested the Commission, with four years of wholesale RFPs available to make judgments on the model, should conduct an empirical examination to determine whether retail or wholesale SOS is the best model for customers, or whether an alternate procurement method should be pursued.

OPC further recommended that the PSC defer codifying the current wholesale rules until ruling on any changes to SOS procurement that are subject to debate in Formal Case 1047, where OPC argued for greater portfolio management.

Direct argued that SOS should be designed so that prices generally reflect the prevailing market price. "This feature is critical in order to send appropriate signals to customers regarding the relative value of demand response, energy efficiency and conservation measures versus the option of continued consumption at previous levels," Direct said.

"Periods during which prices rise steadily or remain relatively high on a historical basis (as we have seen in the electricity markets until just the past few months) will be far more effective in inducing customers to invest in demand side options than are utility-directed programs that must overcome customer inertia caused by the use of a structure that mutes price changes. Such a structure will also encourage energy retailers to enter the market in order to offer these value-added and energy management services to customers in all rate classes," Direct noted.

## *Duquesne ... from 1*

for further review would prejudge the issues to be decided later, MISO added, and FERC cannot stagger consideration of the issues.

The settlement stipulates Duquesne would rescind its notice of withdrawal from PJM and remain a PJM member for five years, but is silent as to its MISO status. There is noting in FERC Order 2000 that precludes a utility from being a member of two RTOs, but the Order does suggest that only one RTO can exercise functional control of the facilities of a public utility, MISO noted.

The settlement, MISO said, largely ignores FERC's September 3 order which approved Duquesne's integration with MISO. While MISO would not object to Duquesne being an administrative member of MISO while remaining in PJM, MISO suspects Duquesne will be unwilling to execute the settlement if it is required to pay administrative costs of two RTOs, and suspects that Duquesne sees the settlement as extinguishing its contractual relationship with MISO *sub silentio*.

MISO has expended over $2 million to integrate Duquesne's facilities into its system. Using the LG&E withdrawal order formula, MISO estimated Duquesne's withdrawal fee at $7.1 million.

The Pennsylvania PUC also opposed expedited review of the settlement, arguing private parties have been negotiating for more than eight months at their own pace on Duquesne Light's RTO participation. As the first mediation settlement was in February 2008 (with Duquesne's original application to leave PJM filed in November 2007), parties, "cannot now claim the existence of an emergency necessitating a shortened comment period," the Pennsylvania PUC said.

"The progress of the settling parties in negotiating and announcing to other parties their proposed filing was leisurely and the actual filing was made with no more alacrity," Pennsylvania regulators added.

The PUC noted the proposed settlement does not contain all the terms between the parties and does not answer a number of questions, including the actual cost of the settlement, and how and from whom such costs will be recovered.