

Energy Choice Matters

December 31, 2008

NYSEG Asks FERC to Correct NYISO Charges Dating Back to 1999 due to Metering Errors

NYSEG petitioned FERC for a declaratory order to require the New York ISO to rebill certain charges dating back to 1999 to correct for metering errors which have resulted in NYSEG being incorrectly invoiced for purchases of energy totaling just over \$20 million (EL09-26).

The metering errors, discovered only recently, have resulted in a windfall to National Grid in the same amount, NYSEG said, and involve interchange points between NYSEG's and National Grid's transmission facilities. Although NYSEG found metering errors from both itself and Grid, NYSEG attacked Grid's "pattern of errors" in metering problems. National Grid's metering issues are not "garden variety," and are, "extraordinary in their scale and frequency," NYSEG said.

"National Grid's 'track record' regarding its meters is also unusual, making it even more troublesome that National Grid has received a windfall," from the errors, NYSEG said.

About \$7.3 million of NYSEG's overcharges were attributed to the National Grid metering errors, while \$13.5 million was attributed to a NYSEG error.

The various errors were hard to detect because either the errors in each invoice were small (though the errors added up to substantial amounts over time), or because the errors were consistent across billing periods, meaning data did not stand out as inaccurate during reviews. Errors included readings of an incorrect magnitude, which under-recorded consumption, and meters with reversed polarity, which caused meter readings to be reversed.

The NYISO Services Tariff places a time limit on invoice corrections, but NYSEG noted it also specifically provides for changes to finalized invoices if FERC orders such changes.

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Pa. PUC Blasts Duquesne-PJM Settlement, Seeks Hold Harmless Provision for Customers

The Pennsylvania PUC and industrial customers objected to a proposed settlement among Duquesne Light, PJM and several generators that would see Duquesne remain in PJM, rather than join the Midwest ISO, because of the lack of a hold harmless provision for Duquesne's wholesale and retail customers (ER08-194).

While the settlement purports to allocate costs and obligations among the parties, wholesale buyers and ultimately retail consumers, there is nothing on the record or in the proposed settlement which states the actual cost of the settlement, the PUC noted (Matters, 12/17/08).

"The settling parties have apparently agreed among themselves that furnishing details and cost data to the Commission would be detrimental to their private interests," the PUC charged.

Yet, the settling parties do not bear the cost of the settlement (or in the case of the settling generation owners, benefit from the settlement), the PUC added.

"Without knowing the cost of this deal made behind closed doors, the Commission has no basis on which to find the settlement to be either 'just or reasonable' or 'in the public interest,'" the PUC said.

None of the parties that represent wholesale or retail electricity customers support the stipulation, the PUC pointed out.

On its face, the proposed settlement refers to existing or future material agreements or undertakings between and among the settling parties or others, but the nature and scope of such agreements are not included or specifically disclosed in this proposed settlement, the PUC claimed.

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National Grid Says PSC Should Not Accelerate New Balancing Program at KeySpan

The New York PSC should refrain from adopting Staff's suggestion to accelerate the timeline for the implementation of a proposed new Daily Balancing Program at the KeySpan LDCs, because a certain completion date cannot be projected until detailed system design and requirements are completed, National Grid said in reply comments (06-G-1185, 1186).

National Grid proposed that the changes be implemented no later than November 1, 2011, but Staff urged a faster schedule. Staff recommended that the startup date coincide with the completion of the M2M/FSM metering project at both the New York and Long Island LDCs (2010). The M2M/FSM Project is a metering upgrade designed to capture real-time hourly data from 3,700 KEDNY and 550 KEDLI Temperature Control (TC) customers.

Among other things, the new balancing 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 (Matters, 12/17/08).

While National Grid may be able to complete the system modifications necessary to implement the Daily Balancing Program before November 1, 2011, Grid is concerned that until the detailed requirements and design for the project are completed, Grid cannot determine a realistic startup date with any degree of certainty.

Completion of the M2M/FSM project by itself will not allow the KeySpan LDCs to implement the Daily Balancing Program, Grid reported. While the meters being installed as a part of the M2M/FSM project are capable of supporting the new Daily Balancing Program, additional metering systems changes (software and hardware) will be necessary to support the new Daily Balancing Program as well, Grid said.

Four major processes require enhancement to implement the new balancing program: (i) acquisition and storage of gas meter readings coming from the M2M/FSM project, (ii) implementation of marketer gas capacity nominations and development of an interface

with an ongoing Electronic Bulletin Board project, (iii) development of a Transportation Management System that will track gas imbalances and determine cash-out pricing, and (iv) modifications to each of the LDCs' existing customer systems.

Grid reported there are three alternative solutions to implement the new balancing program: (i) enhancing the existing legacy KeySpan components and processes, (ii) converting KeySpan to the legacy Niagara Mohawk Transportation Service Application system or, (iii) converting to a new vendor product. A committee must still review and select among the three alternatives, and a schedule with certain dates cannot be produced until that selection is made, Grid said.

Grid noted that none of the marketers in the proceeding have petitioned for a faster implementation schedule.

MEA Says RGGI Credits Should Appear as Line-Item, Not a Reduction in kWh Rate

Funds from the Regional Greenhouse Gas Initiative auction should be credited to all Maryland residential electricity customers as a line-item on bills, and not embedded as a per-kilowatt-hour credit, the Maryland Energy Administration said in comments at the PSC (Case 9166).

Residential customers are to be paid as rate relief 23% of the monies in the Maryland Strategic Energy Investment Fund, which consists primarily of RGGI proceeds from allowances, as well as money appropriated in the state budget, and compliance fees paid under §7-705 of the Public Utility Companies Article, Annotated Code of Maryland.

MEA favors a separate credit instead of applying the credit to the kilowatt-hour rate, because such a kilowatt-hour credit mechanism would prevent customers from seeing the clarity of the kilowatt-hour rate calculation. Embedding the credit into the kilowatt-hour rate calculation could also make the credit appear greater for larger energy users, MEA noted. A flat, line-item credit could also encourage more energy efficiency and conservation, MEA said.

MEA supports a line-item labeled Strategic

Energy Fund Credit to apply a fixed credit to bills, rather than applying the credit to other fixed charges on bills (such as the customer service charge), to provide greater transparency. MEA also suggested periodic bill inserts describing the credit and the program behind it.

Kelson Line Would Not Produce Customer Benefits, Texas AG Says

Not only is Kelson's proposed Canal-to-Deweyville transmission line linking the Cottonwood generating facility to ERCOT not needed, its financing would be, "inequitable," the State of Texas said in a post-hearing brief in Kelson's CCN application (34611).

The costs of the 95-mile line extending into SERC, "will most certainly be borne by ERCOT customers," the Texas Attorney General noted, but production cost benefits, on the other hand, may well be captured by Kelson's affiliated generation company, whose plant is currently identified as the "anchor tenant" for the line.

"If there is truly an economic benefit available from construction of the line, and if Kelson's affiliate can sell its power at a sufficiently low price to undercut the native competition in ERCOT, it is not clear why Kelson's affiliate does not pay the costs of the line itself," the AG said.

Kelson's original study of the line excluded its costs and thus did not present net benefits, the AG noted. A subsequent study by Kelson showed net production cost benefits of only \$11 million for a 1,230-MW line, and that figure was obtained using a lower discount rate, the AG added. An investment of \$290 million to build the line cannot be justified on the basis of such "paltry" (and hypothetical) net benefits, the AG argued.

The AG also cited PUCT Staff testimony which cast doubts on any potential economic benefits from the line, and found the line not to be needed for reliability purposes (Matters, 10/20/08). Industrial customers and PUCT Staff also submitted post-hearing briefs opposing a CCN based on a lack of benefits.

However, Kelson argued in tying the Cottonwood facility to ERCOT, the line brings a new, highly efficient combined cycle plant to ERCOT without incurring the production cost of

building it. Thus, the \$11 million figure understates the benefits from the line, because, for example, the line would produce an avoided cost of a combined cycle peaking unit that would be approximately \$1.5 billion in 2008 dollars on a net present value basis.

The project, Kelson argued, will reduce transmission constraints, which will significantly decrease wholesale energy costs and facilitate wholesale and retail competition. Interconnection of the Cottonwood facility and other generators in East Texas will improve market efficiency by increasing the size of the wholesale market and the number of competitors. Reduction of wholesale energy costs in a competitive market, and adding to the number of competitors to protect against the potential for less than perfect competition, will foster competition in the retail market and result in a reduction of energy costs for end-use customers, Kelson said.

Briefly:

Energy Rebate Seeks Maine Broker License

Massachusetts-based broker Energy Rebate applied at the Maine PUC to broker all sizes of C&I customers at Central Maine Power, Bangor Hydro-Electric and Maine Public Service. Energy Rebate currently brokers in Connecticut, Massachusetts, New Hampshire, and Rhode Island.

DTE Energy Trading Receives Ohio Gas License

DTE Energy Trading was awarded a competitive retail natural gas marketer certificate by PUCO. DTE sought the certificate so it can serve customers under Dominion East Ohio's impending Standard Choice Offer, which will auction off the right to serve individual customers (Matters, 11/25/08).

Constellation to Pay \$115,000 to Settle LaaR Violations

Constellation Energy Commodities Group has entered into a settlement with PUCT Staff under which it would pay a penalty of \$115,000 for failing to deploy 95% of its 46 MW of Load acting as Resource (LaaR) within 10 minutes as required on December 12, 2007. The settlement is subject to Commission approval.

D.C. PSC Approves Withdrawal of BGE Home Products Electric License

The District of Columbia Public Service Commission granted BGE Home Products and Services' request to relinquish its electric retail supplier license, as BGE Home Products no longer supplies the electric commodity to District customers.

FERC Accepts Nstar-HQ Transfer of Transmission Rights

FERC accepted an agreement between Nstar and H.Q. Energy Services (U.S.) under which Nstar will transfer its transmission capacity use rights over the Hydro Québec Interconnection to HQUS for a period of five years, denying a protest from Brookfield Energy Marketing. FERC ruled Nstar did not have to hold a competitive bidding process for the transfer, as claimed by Brookfield. Order No. 890 permits the use of negotiated rates for reassigned transmission capacity, FERC added (ER09-207).

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NYSEG requested that the NYISO rebill, rather than reissue invoices for, the value of the energy related to the errors. Rebilling would avoid the expense and massive dedication of resources that would be required to reissue all of the NYISO invoices since 1999.

Although a rebilling would involve an estimate of NYSEG's losses, rather than an exact amount, it is the best option, NYSEG said.

A FERC order requiring a rebilling would correct an "injustice" not only to NYSEG, but also to NYSEG's customers, because pursuant to its applicable rate plans, a majority of the requested adjustment NYSEG would receive from such rebilling would be credited to its retail customers, NYSEG said.

NYSEG and National Grid have engaged in an informal arbitration before the NYISO, but have been unsuccessful in reaching a final resolution.

Duquesne ... from 1

"The Settling Parties have apparently agreed that some of the terms of their agreement will be kept confidential and not disclosed to other parties, [FERC] or the public," the PUC said.

"It is troublesome that this proposed settlement likely constitutes only a portion of the entire universe of agreement(s) among the Settling Parties. While Paragraph 11 of the proposed settlement recites that the proposed settlement 'constitutes the entire agreement between and among the Settling Parties,' that is true only with respect to 'the matters addressed in this Settlement Agreement.' Important terms that must have been negotiated and executed between Duquesne and other parties or between some or all the parties and unnamed third parties do not appear in the document," the PUC alleged.

The PUC believes that such privately negotiated agreements and other agreements between third parties not referenced in the settlement include "material" terms and conditions disposing of substantial liabilities, obligations, or benefits, which the settling parties intend to wholly or partially pass on to others. The PUC further alleged that the settling parties intend to pass these costs on to Duquesne's wholesale and retail customers without meaningful prior review by FERC.

Wholesale and retail customers should not be any worse off as a result of decisions they did not participate in and the assumption of risks by Duquesne that the public did not agree to bear, the PUC argued.

But Duquesne and its affiliates, "apparently intend that its customers shall bear all risks and open-ended costs, not simply those costs resulting from Duquesne's failed effort to join MISO, but also those costs related to Duquesne's reversal of that decision," the PUC charged.

The proposed settlement likely results in the reallocation and assessment of substantial costs in the range of multiple millions of dollars, the PUC reasoned.

"Duquesne's customers were neither consulted before, during or after its decision to move to MISO or its decision to return to PJM. Duquesne's decisions in this case were made unilaterally and without the approval of its customers or the PaPUC. Duquesne's customers did not agree to bear any of the risks, nor did its customers agree to act as guarantors for Duquesne's actions," the PUC said.

"Moreover, Duquesne has not established that its actions in this case have been prudent or

in the interests of anyone other than itself," the PUC contended.

"Duquesne should have known that a move from one RTO to another would not be without cost or obligation. Transmission owners may join an RTO or not as they wish. But the exiting transmission owner is not free to choose which agreements it will honor, what burdens it will assume or discard and how it will allocate the resulting costs of its move to others," the PUC noted.

Specifically, the settlement fails to identify:

- How, from which sources and at what cost Duquesne will acquire generation capacity needed to reenter PJM in the 2012-2013 capacity delivery year;
- The cost of satisfying Duquesne's obligations to PJM and MISO transmission owners, generation owners and transmission operators for the (now unnecessary) efforts to integrate Duquesne into the MISO grid and markets;
- The cost of reintegration of Duquesne back into PJM markets, planning processes and grid control;
- How Duquesne intends to recover the (presently unknown) costs of the settlement, and
- The prudence of incurred costs by Duquesne, including what due diligence Duquesne performed prior to acting, including its before-the-fact investigation and analysis supporting the benefits to customers of a move to MISO or the subsequent investigation and analysis Duquesne performed before reversing its decision.

Due to these unknown factors, Duquesne's customers (and potentially the customers of other members of PJM and MISO) are potentially liable for hundreds of millions of dollars of costs that they would not have borne had Duquesne remained in PJM and/or carried out its move to MISO, the PUC observed.

The PUC's objection to the settlement would be eliminated, it said, if Duquesne had agreed that its customers would not be left in a worse position as a result of the proposed settlement than they were before Duquesne initiated the proceedings.

To the extent FERC approves the settlement agreement, Duquesne Industrial Intervenors

urged that FERC insert language that expressly states customers in the Duquesne Zone will be able to participate in PJM load response programs as set forth in the tariff for the period covered by the settlement agreement. The settlement agreement has sparked a controversy regarding whether Duquesne is currently a member of PJM, MISO, or both, industrials explained, which could jeopardize the ability of customers in the Duquesne Zone to participate in PJM load response programs.

The settlement should also give demand resources equal consideration in developing an out-of-time Fixed Resource Requirement (FRR) plan, industrials added.

The Midwest ISO reiterated earlier comments noting Duquesne is contractually prohibited from leaving MISO for five years, and that MISO is seeking compensation of \$9.1 million in exit fees and reimbursement of integration costs.