Energy Choice Matters
January 6, 2009

Texas Stakeholders Outline Plan to Reduce Switching Timeline to Three Days

Texas stakeholders have outlined three possible alternatives to accelerate the 45-day switching window, including one scenario under which switches would be processed in just three days using out-of-cycle meter reads (36535).

PUCT Commissioners have requested an examination of shortening the switching window in order to alleviate logistical problems associated with giving customers adequate notice and time to switch when REPs change rates or other material terms of contracts, or when a contract expires (Matters, 12/30/08, 12/19/08).

Market participants identified two main drivers of the switching window during a conference call last week -- the ERCOT notification (postcard) required by P.U.C. Sub. R. 25.474(l)(1), and the on-cycle meter reading on which most switches take place. Stakeholders developed three alternatives by removing one or both of these factors.

Under what was labeled Option 3 in a memo from PUCT Staff, the switching window could be shortened to approximately three days by eliminating the ERCOT postcard and the associated rescission period, and by completing switches using an out-of-cycle meter read for all switches. With such changes, the switching timeframe becomes identical to that of a move-in.

Under Option 2, the window would be shortened to about 15 days, by maintaining the ERCOT postcard and rescission period but using an out-of-cycle meter read for all switches. A customer would be switched on the first business day following the expiration of the rescission period, eliminating a wait of up to 30 days for the next on-cycle read.

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ERCOT, PUCT Staff File Stipulation to Set Interim Nodal Fee at 22.6¢

Several parties, including PUCT Staff, have filed a non-unanimous settlement that would increase ERCOT's interim nodal surcharge to $0.226/MWh, lower than the $0.38/MWh originally requested (36412, Matters, 11/25/08).

Under the proposed settlement, the fee would increase from the current $0.169/MWh on February 1. Signatories included ERCOT, PUCT Staff, Austin Energy, Lower Colorado River Authority, Luminant, Ambit Energy, CPS Energy, and Texas Competitive Power Advocates.

The increase would be on an interim basis until the Commission issues an order revising the interim nodal surcharge or approves the replacement of the interim nodal surcharge with a revised nodal surcharge. Signatories agree to not oppose ERCOT's plan to defer repayment of nodal program debt until revenues collected from the surcharge are sufficient to recover current cash outlays and to begin servicing outstanding nodal program debt.

ERCOT staff committed to take the necessary steps to present the nodal schedule and budget to the ERCOT Board of Directors for a vote at the March 2009 board meeting.

The increased interim nodal surcharge will still be charged to QSEs representing generation resources.

Non-signatory parties agreed that the Commission may resolve all the issues in the case without the need for further litigation. Parties not signing the stipulation either do not oppose its adoption, or oppose the terms of the stipulation but do not request a hearing on the stipulation. All the parties have

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Ambit Energy Expands Marketing to NiMo

Multi-level marketer Ambit Energy has expanded its electricity and gas marketing into the Niagara Mohawk (National Grid) territory of New York.

Ambit offers a variable rate product, for both electricity and gas, which includes a 7% discount for the first two month's energy usage and an annual overall savings of at least 1% below the incumbent provider's published supply charge. Customers may also receive travel reward points each month, and free energy, month after month, by referring 15 other customers to Ambit Energy service.

Previously, Ambit's New York marketing was confined to the Consolidated Edison territory. Ambit plans to expand its gas service to National Grid's KeySpan LDCs upon integration of KeySpan's and Grid's backoffice systems. Ambit also offers electricity in ERCOT and gas in the Nicor area of Illinois. It recently received an Ohio gas marketer's license and is preparing to enter the market, possibly as early as the first quarter of 2009.

Staff Favors Dismissal of dPi Complaint Against CenterPoint

PUCT Staff recommended dismissal of a complaint from dPi Energy against CenterPoint Energy for, among other reasons, failure to first pursue resolution of the complaint informally at the Commission (36440).

dPi is seeking to require CenterPoint to disconnect one of its customers for non-payment of the customer's electric bill. While CenterPoint agrees that the Commission's substantive rules and its tariff authorize the disconnection of service, CenterPoint has decided not to disconnect service without a Commission order because of the apparent serious medical condition of one of the occupants of the customer's residence.

Staff did not take a position at this time on the appropriateness of CenterPoint's conduct. However, Staff noted dPi does not have the authority to authorize CenterPoint to disconnect the customer because it has not filed an affidavit evidencing that it understands the Commission's rules regarding disconnections and reconnections, and that it has tested all necessary electronic transactions related to disconnections and reconnections of service as required by P.U.C. SUBST. R. 25.483(b). It appears that neither dPi nor its predecessor, Current Power & Light, has filed the required affidavit in Project No. 29760, the Commission's project created for this purpose, Staff said. dPi has also failed to provide evidence that it provided the customer with notice of electric service disconnection that conforms to the Commission's rules, Staff said.

Staff also noted there is uncertainty regarding the critical care status of one of the occupants of the customer's residence. Although dPi has apparently communicated with the customer about this issue, it is not evident that dPi has provided the customer with the Commission's standardized Critical Care Eligibility form or that it has advised the customer that the customer's critical care designation has or will expire unless it is renewed, as dPi is required to do under P.U.C. SUBST. R. 25.497(b)(12), Staff said. The customer may recently have received financial aid allowing it to satisfy its delinquent account, Staff added.

Constellation Seeks Elimination of FirstEnergy Shopping Credit Cap With Expiration of RSP

PUCO should deny in part the filed tariffs of the FirstEnergy Ohio utilities meant to extend existing rates and charges on an interim basis (as a result of FirstEnergy's withdrawal of its Electric Security Plan), and should remove all references to shopping credits and shopping credit caps in the tariffs, Constellation Energy said in comments (Matters, 12/23/08).

FirstEnergy's Rate Stabilization Plan (RSP), which continued but reduced and capped the amount of shopping credits available to customers, expired December 31, 2008, Constellation noted. There is no basis for extending its terms, especially as SB 221 holds that generation charges are not to be recovered through distribution or transmission rates.

The shopping credit caps essentially forbid customers whose standard service offer (SSO) generation costs exceed the caps from being able to truly purchase their competitive services at competitive prices, Constellation said. For example, a medium general service customer of Toledo Edison could have a generation cost of more than one cent per kWh over the shopping credit cap.

The "artificially low" shopping credits at the end of 2008 were as follows (values are averaged for the three FirstEnergy utilities): Industrial 4.86¢/kWh; Commercial 4.54¢/kWh; Residential 6.74¢/kWh, the Ohio Energy Group added, due to nonbypassable Regulatory Transition Charges and Rate Stabilization Charges.

"For competitive retail electric service ('CRES') providers, these shopping credit caps have long been viewed as the major barrier to customer choice and competition and the reason for the collapse of any customer switching in the FirstEnergy service area following the introduction of the RSP plan," Constellation noted.

SB 221 holds that absent an approved Electric Security Plan or Market Rate Offer, post-2008 rates are to be set at the previously in-effect "rate plan," which is defined as the standard service offer in effect on the effective date of SB 221.

Constellation stressed that the standard service offer is the bundled combination of competitive and non-competitive services that a utility must offer as a default to ensure that all retail customers have service. The standard service offer has no impact on shopping customers that purchase electric service from a competitive provider, Constellation noted. Thus, FirstEnergy cannot extend the shopping credit paradigm with the shopping credit caps by virtue of extending its standard service offer, Constellation argued.

The Ohio Consumers' Counsel reiterated its request that FirstEnergy be required to remove the Regulatory Transition Charge from post-2008 rates (Matters, 12/24/08), and also requested that bid prices submitted during the December 31 RFP for interim supplies be made available to all members of the public (Matters, 1/5/09).

Nucor Steel alerted PUCO that it appears Ohio Edison has implemented a substantial change in its procedure for determining when to call economic interruptions for interruptible customers, without seeking Commission approval. Nucor reported that Ohio Edison began the new year by calling for economic interruptions from Nucor where the incremental cost of providing the interruptible energy was far below the pre-existing 6.5¢/kWh trigger, apparently using Midwest ISO day-ahead prices as the basis for determining incremental energy costs and buy-through costs, Nucor said.

"[T]he effect of FirstEnergy's new approach will be to convert FirstEnergy's interruptible rates into de facto hourly real-time pricing rates for most hours, by dropping the strike price from 6.5 cents/kWh to 2.9 cents/kWh or lower," Nucor warned.

Nucor has already experienced 68 hours of interruptions during the first five days of the year under the new approach used by FirstEnergy, it told PUCO.

BGE Recommends Nonbypassable Surcharge for Gap RFP Costs

The Maryland PSC should implement a nonbypassable surcharge to recover costs of a Gap RFP to procure demand response resources, Baltimore Gas and Electric said in comments on a Staff draft RFP (9149).

The Gap RFP is meant to bridge any potential reliability gap that may exist if needed transmission projects do not come online in 2011-12.

Although the proposed Contract for Differences structure offered by Staff will insulate customers from some economic risk from the Gap RFPs, BGE noted there will still probably be costs that need to be recovered as the RFP is implemented. Since the Gap RFP is meant to address reliability concerns, all customers should pay for associated costs, BGE said.

Staff's draft RFP would use non-utility curtailment service providers or individual customers registered as curtailment service providers as the resource bidders, with service agreements between curtailment service providers and utilities, rather than having the utility function as the curtailment service provider (Matters, 12/24/08). While utilities supported this approach, the Maryland Energy Administration called the approach "speculative" and raised a number of concerns.

As the RFPs will be for new demand response resources to be bid into PJM's four-year forward market, the RFPs require "significant" speculation on the part of curtailment service providers as to the level of demand response they can achieve in that forward timeframe, MEA said. Thus, "it is likely that the current RFP structure will result in a conservative level of resource bids," MEA argued.

MEA also reported that, after discussions with the University of Maryland and others, some new demand resources may not be able to contract forward for four years, due to the relatively short timeframe of existing curtailment service provider contracts, or a lack of awareness of the current RFP process. New solar or other clean energy installations that can provide demand response may also be unable to contract with a curtailment service provider to take advantage of the RFP, MEA added.

MEA suggested that the RFP provide an option so that resources not contracted to or affiliated with a curtailment service provider may still submit bids. An option may be for utilities to offer a "restricted" bid option, under which any non-curtailment service provider bids would be subject to utility review and contract or assignment to a curtailment service provider prior to PJM's base residual auction. Staff's RFP does allow customers to act as their own curtailment service provider if they are registered as such with PJM, but this option requires PJM membership.

The PJM Power Providers (P3) Group generally endorsed Staff's RFP but worried that the multi-year bidding requirement could prevent resources that could otherwise be used to meet any potential gap from participating. The multi-year requirement could raise prices for consumers as short-term, less expensive resources would not be able to bid, P3 said

The Pepco utilities reiterated their desire that the RFP contain a specific amount of demand resources to be procured. Under Staff's RFP, utilities would essentially create a "supply curve" of Gap RFP bids that starts with the cheapest bids and gradually increases the quantity that could be contracted for as higher bid prices are added to the supply curve. The Commission would then determine which resources to procure based on these results.

Briefly:

Synergetic Energy Pools Relinquishes Md. Broker License

The Maryland PSC accepted Synergetic Energy Pools' request to relinquish its electricity broker license, but conditioned return of Synergetic's original $10,000 bond upon the confirmation by Commission Staff that all of Synergetic's customers have valid contracts with an electric supplier and that the electric supplier is, in fact, honoring the terms of the contract for each of the customers.

Md. PSC Accepts Allegheny Phase-In Credit Plan Pending Further Review

The Maryland PSC provisionally accepted Allegheny Power's residential rate transition surcharge credit mechanism, subject to the outcome of ongoing discussion between Allegheny, Staff, and the Office of People's Counsel regarding the mechanism. Staff has proposed a summer-non-summer differential in the credit, to reflect appropriate price signals, but the People's Counsel has opposed that suggestion since it would not provide rate stability (Matters, 12/30/08). The credit stems from a phase-in program which allowed Allegheny customers to pre-pay a share of the expected cost increases associated with the move to market rates in 2009, through a rate transition surcharge collected in 2007 and 2008.

Pepco Energy Services Wins $5 Billion DOE Contract

Pepco Energy Services was among several companies awarded a master Indefinite Delivery Indefinite Quantity (IDIQ) Energy Savings Performance Contract (ESPC) by the U.S. Department of Energy. ESPC contracts allow federal agencies to accomplish energy projects for their facilities both nationally and internationally without up-front capital costs. The $5 billion, five-year contract contains an option for two three-year extensions for a potential 11-year contract. McKinstry, which recently acquired Direct Energy's Texas-based Commercial Services and Technology group, was also awarded a $5 billion ESPC.

Switching Window ... from 1

Under Option 1, the switching window would be about 30 days, and would maintain on-cycle meter reads, but would eliminate the ERCOT postcard and rescission period.

ERCOT reported that changing the timeline associated with the postcard (e.g., reducing the number of days the customer has to respond rather than completely eliminating it) would be problematic for its registration system's stacking logic, and would require significant system changes. Turning the postcard "off" is feasible using the notification waiver, and thus the options focus on either keeping or eliminating the postcard, rather than accelerating its timeline.

Approximately 21,000 customers have cancelled switches using the contact information provided on the postcard through September 2008, according to ERCOT records. However, not all such cancellations can necessarily be attributed to alleged slamming, Staff noted, as some could be due to buyer's remorse.

From January 2008 to September 2008, there were an estimated 535,000 switches processed. TDSPs have expressed concern that processing all switches off-cycle would require significant changes to TDSP workflow, staffing, and truck/gasoline requirements, because of the need to perform an out-of-cycle meter read for all switches. Existing tariff charges for out-of-cycle meter reads do not reflect the costs associated with such changes.

ERCOT Fee ... from 1

agreed to waive their rights to cross-examine witnesses in the proceeding and agreed that a hearing on the merits is not necessary unless requested by the Commission.

Non-signatories include the Alliance for Retail Markets, Texas Energy Association for Marketers, Reliant Energy, TXU Energy, Texas Industrial Energy Consumers, Office of Public Utility Counsel, and Wal-Mart, among others.