

# Energy Choice Matters

January 19, 2009

## Latest Maryland RFP for Residential/Type I SOS Leaves More Blocks Unfilled

The majority of Maryland mass market SOS supplies available in a January 12 RFP drew no acceptable bids, leaving most load unserved in a growing trend during the Maryland procurements.

There were no acceptable bids for 17 Baltimore Gas and Electric residential blocks, two Delmarva combined residential and Type I commercial blocks, and one Allegheny Power residential block for a 24-month contract commencing on June 1, 2010. The BGE and Delmarva blocks were previously unfilled in an original October RFP and a November reserve tranche. Only two blocks drew acceptable bids and were awarded -- a single Allegheny residential block for a 12-month contract commencing on June 1, 2009, and a single Allegheny residential block for a 12-month contract commencing on June 1, 2010.

Bids were rejected because they did not pass the Price Anomaly Threshold (PAT), which is intended to prevent spikes or other market abnormalities from being reflected in the RFP results. However, Baltimore Gas and Electric called in the current PAT methodology flawed, and Delmarva agreed that the Maryland SOS process may "ultimately break down" if the PAT is not revised. Both utilities cautioned that the PAT may be rejecting legitimate, competitive bids, that are merely reflecting actual market conditions.

BGE noted that for the October 2008 procurement, the residential PAT was lower than the Type I commercial PAT, which BGE found strange. Average Type I winning bids have consistently been lower than average residential winning bids. Type I customers have a higher load factor than residential customers and are thus less costly to serve. Given this fact, it's not clear to BGE why the

*... Continued Page 4*

## Conn. DPUC Draft IRP Sees No Need for Generation Procurement

No new generation or demand-side resources should be procured at this time given Connecticut's adequate energy and capacity requirements, the DPUC would find in a draft decision on a state integrated resource plan (IRP) that would also affirm earlier DPUC decisions with respect to long-term contracting (08-07-01).

The Connecticut Energy Advisory Board (CEAB), in concert with the distribution utilities, developed an IRP that favored heavy expenditures into demand-side management and conservation, and also supported greater bilateral, long-term contracting for utility standard service supplies, as well and bundled energy, capacity and REC contracts.

In its draft, the DPUC found that since Connecticut is not forecast to have a shortage of any energy or capacity requirements during the statutorily defined planning horizon, no new generation resources should be procured at this time. Additionally, the draft would not approve the CEAB's and the utilities' recommendation to procure hundreds of millions of dollars worth of new conservation and demand response resources over the next 10 years, given that state has no specific needs for additional energy or capacity resources.

The Department's draft confirms its 2008 decisions allowing the utilities to enter into long-term contracts to reduce the cost of standard offer service, and the cost to comply with the renewable energy requirements. However, the examination of long-term contracts in future annual IRPs will be limited, and long-term contracts will only be considered for a specified resource need identified by the

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## **Md. PSC to Review Authority Over Constellation-EDF Deal**

The Maryland PSC opened a new proceeding (Case 9173) to determine if it has authority over EDF's purchase of 50% of Constellation's nuclear unit.

The Commission has jurisdiction over transactions which give the acquirer the power to exercise "substantial" influence over a jurisdictional utility. While the EDF transaction is structured as an asset purchase, the Commission said the EDF transaction will also create a new corporate and economic relationship at Constellation, which may well qualify as giving EDF substantial influence over Baltimore Gas and Electric.

The PSC questioned whether preferred CEG stock issued to EDF would give it substantial influence over BGE. Furthermore, a list of conditions placed on Constellation, including removing the nuclear unit from the corporate cash pool, could potentially impact BGE, the Commission said. The question of whether BGE needs additional ring fencing will also be considered.

Additionally, the PSC will investigate how the termination of the original MidAmerican Energy Holdings merger will impact BGE, and whether any of the termination compensation paid by Constellation, including \$500 million in cash, has been allocated to BGE, or if such payments will impact BGE's cost of or access to capital.

The Commission will hold oral arguments March 6.

The PSC closed Case 9160, its original review of the MidAmerican deal, in opening Case 9173.

The Office of People's Counsel said that the \$2 billion asset put option included as part of the EDF deal also creates further factual issues that bear on whether Constellation would be willing or able, in light of the asset put option, to agree to the reacquisition of existing Constellation generating plants by BGE, agree to implement long-term contracting between BGE and the existing Constellation generating plants, and/or agree to the construction of a new generating plants within the regulatory structure of BGE.

OPC further noted that the right of EDF to appoint one member to Constellation's board, and the fact that EDF will also have the right to

appoint one member to all of the committees of Constellation's board, could also potentially give EDF substantial influence over BGE, depending on the responsibilities of each committee.

## **Maine Narrows Alternatives in Event ISO-NE Reforms Fail**

The Maine PUC is unable to make conclusions about the costs and benefits of possible alternatives to ISO New England at the present time because such alternatives have not been sufficiently developed, the PUC said in a final, written order concerning Central Maine Power and Bangor Hydro-Electric's participation in the ISO (2008-156). However, the PUC did narrow consideration of alternatives to two options.

The PUC had previously said that pursuing reforms at ISO-NE, including in the areas of transmission cost allocation and cost containment, is the best course of action (Matters, 1/9/09). However, the written order explains how the Commission intends to move forward if CMP and BHE cannot win such reforms as part of negotiating new Transmission Operator Agreements.

The majority of the Commission supports full development and consideration of the "a la carte" option should the reforms fail, called the Maine Transmission Owner-ISO-NE Contract Option. Under the Maine Transmission Owner-ISO-NE Contract Option, CMP and BHE would remain within the ISO New England control area (or balancing authority area), in terms of the reliability and operational aspects of the system, and CMP and BHE's customers would continue to participate in the ISO-NE energy and capacity market. However, the utilities would plan and implement their own transmission projects within the parameters of existing state oversight, to ensure that investment and other decisions are made with consideration of consumers and the costs they bear.

If negotiations for the ISO-NE Contract Option fail, the Commission may consider an expanded Northern Maine Independent System Administrator model. Such a model was not investigated in any depth during the proceeding.

While reserving the two alternate options for future consideration, the PUC determined that CMP and BHE should focus on reforming the TOAs now, and defer development of alternate

proposals. The utilities are to report to the Commission on the progress of such negotiations at 60-day intervals beginning on March 1, 2009. After receiving the May 1 report, the Commission will consider whether reporting should occur on a more frequent basis and issue a schedule to receive the parties' views on what actions, if any, the utilities should take with regard to providing notice of non-renewal of the TOA, and planning for and developing the alternative models to the reform option.

The Commission will not require the development of an alternative structure during the early stages of TOA negotiation because doing so would divert the parties' and the Commission's resources from aggressively pursuing the ISO-NE reforms, the PUC said. However, the PUC will require the utilities to report by May 1:

1. What steps would be necessary and what documents would be required to be submitted to FERC to accomplish the Maine Transmission Owner/ISO-NE Contract Option;
2. Whether ISO-NE would consider negotiating an agreement or agreements to accomplish the Maine Transmission Owner/ISO-NE Contract Option, and
3. An outline of the steps required and cost estimates for the transmission owners to assume responsibility for transmission planning, implementation and necessary filings with FERC.

Commissioner Jack Cashman, dissenting in part, said that pursuit of the alternatives to the reform option should start immediately, with a report due June 15. Cashman argued that the NMISA operation in northern Maine, "has proven itself to be cost conscious and to have an ability to contract for a la carte services from the [New Brunswick System Operator]." NMISA could be expanded to include all of Maine, or the PUC could establish two MISAs, the existing northern Maine system and a second MISA for southern Maine that contracts with ISO-NE instead of NBSO for the services needed, Cashman suggested.

## **Briefly:**

### **ICC ALJ Incorporates Staff's ABC Law Edits**

A proposed order from an Illinois Commerce Commission ALJ would generally adopt Staff's recommendations regarding the second draft of

rules to implement Illinois' ABC law, which requires agents, brokers and consultants to be licensed and disclose their remuneration from suppliers to customers except in certain instances. Staff's recommendations, endorsed by the ALJ, rejected pleas from several brokers and suppliers to allow oral disclosure of the remuneration requirement, and to prevent competitors and other disinterested persons from filing complaints against ABCs. If approved by the ICC, the revised draft ABC rules would be published in the state register for the required second notice period. Under the proposed decision, issued the afternoon of January 15, exceptions were due January 16, but an extension to the morning of January 20 was granted, though brokers and suppliers asked for additional time.

### **Competitive Metering Provider Texas Utility Solutions Seeks CenterPoint Wholesale Transmission Service**

QSE and competitive metering provider Texas Utility Solutions has petitioned the PUCT to authorize it to take Wholesale Transmission Service from CenterPoint Energy as an eligible transmission service customer pursuant to "Applicable Legal Authorities" as defined in the CenterPoint tariff for Wholesale Transmission Service (36603). Texas Utility Solutions provides wholesale energy services to Load Serving Entities and Competitive Metering Services to IDR Required commercial & industrial customers. CenterPoint has said that Texas Utility Solutions does not qualify to receive service under the wholesale tariff. Texas Utility Solutions is seeking service from a delivery point of the Houston Congestion Management Zone to the ESI IDs of its competitive meters.

### **Md. PSC Staff Petitions for Show Cause Order on Storage Hedging**

The Maryland PSC Staff petitioned the Commission to issue a show cause order to Baltimore Gas and Electric, Washington Gas Light, Columbia Gas, Chesapeake Utilities and Easton Utilities Commission regarding why storage injections for the summer of 2009 should not be hedged now at today's lower futures prices. Current prices (\$0.5545-\$0.6030/therm) are "substantially" lower than average winter prices for the utilities over the last three years

(ranging from \$1.02-\$1.17/therm), Staff noted. However, in response to Staff data requests, the majority of the utilities' responses revealed that they did not intend to change their procurement practices to take advantage of the lower market prices. Staff is concerned such inaction could result in losing an opportunity to lock-in prices lower than rates which otherwise may be charged next winter, and urged the Commission to direct utilities to provide a timeframe to implement a hedging program to hedge 40% of summer storage injections.

### **NUS Consulting Seeks Ohio Broker License**

National Utility Service, d/b/a NUS Consulting Group, applied for an electricity aggregator/power broker license in Ohio, seeking to serve medium and large C&Is at FirstEnergy, AEP, Duke and Dayton Power and Light. NUS is currently licensed Delaware, the District of Columbia, Maine, Massachusetts, and Texas, with pending applications in Maryland and Pennsylvania.

### **Barclays Buys UBS Power/Gas Trading Books**

Barclays Capital is acquiring the power and gas trading businesses of UBS. UBS, which has been particularly hit by the credit crisis, said it expects the deal to close in the second quarter.

### **DPUC Rules Utilities Not Eligible for TSO Incentives**

Connecticut Light and Power and United Illuminating do not qualify for a 0.25 mill/kWh incentive available under each's prior procurement of supplies for the Transitional Standard Offer (TSO) service, the DPUC said in a final decision (03-07-01RE03, 03-07-15RE02). The incentive was authorized by lawmakers if the utilities' full requirements prices from RFPs were below regional average procurement results. The order, which generally tracks an earlier draft (Matters, 12/26/08), found that when adjusted for several factors (such as locational prices, renewables, various reconciliations of prior costs, etc.), the Connecticut utilities did not procure a price below a proxy benchmark to qualify for the incentive.

## ***Md. RFPs ... from 1***

residential PAT should be lower than the Type I PAT.

Furthermore, although BGE's residential blocks were rejected in the three RFPs due to the PAT, BGE argued that the auctions were competitive, with 11 suppliers competing for 17 blocks of load, and submitting 3.9 to 4.7 times the bids necessary to fill the residential load among the procurements.

Delmarva recommended reconvening the SOS working group to reform the PAT prior to the April 2009 RFP, so that it does not continually reject all bids, including those that may not be truly anomalous. A secondary evaluation criteria could be used to check against the PAT, Delmarva said, such as reviewing the total impact of the bids on retail bills. BGE agreed that the PAT needs to be revised before the next procurement.

As recommended by the bid monitor, Allegheny, PSC Staff and the Office of People's Counsel, a reserve auction will not be used to fill the single unserved Allegheny residential block, as an RFP for such small load would not draw much interest. Instead, the unserved Allegheny residential load will be bid in the April 2009 solicitation, which is still well before the June 1, 2010 flow date.

As to the unfilled BGE and Delmarva blocks, the Commission said it is considering various options to procure the remaining unserved load, and will issue an order in the near future as to the selected procurement method.

BGE and Delmarva both suggested awarding their unfilled blocks to the lowest bidder from the January RFP, if bidders will still honor the rejected RFP price.

Delmarva did not support rebidding its two unfilled blocks, which have already been the subject of three RFP solicitations, as it argued rebidding would discourage future RFP participation. Furthermore, Delmarva opposed portfolio management to fill the two blocks, given their small size (50 MW each), and the short lead-time until the June 1, 2009 flow date. Using the short-term market to fill the blocks was also not favored by Delmarva.

In contrast to the RFPs for residential and Type I service, all Type II SOS blocks available in the January 12 RFP were awarded.



## **Conn. IRP ... from 1**

plan. Furthermore, recommendations as to the structure and contracting of standard service to reduce prices are better left to separate proceedings, rather than the IRP, the draft said.

Long-term contracts will provide a more stable revenue stream for projects, which could encourage the development of renewable or non-renewable generation, the DPUC draft said. Fixed pricing or other cost based contacts could help to diversify the fuel mix and stabilize generation rates by breaking the link to gas prices.

"But there is no guarantee that they will reduce electric rates," the Department noted. Long-term contact prices may be higher than market prices for many years, putting ratepayers at risk for higher rates and stranded costs, the draft adds, highlighting that such contracts would shift risks back to consumers.

The draft declined to modify the DPUC's previous findings with respect to long-term contracts, such as limiting long-term contracts to 20% of standard service load, and limiting long-term contracts to meet RPS compliance to RECs only, without bundled energy or capacity.

The DPUC draft concluded that there are sufficient resources to meet the Connecticut Class I RPS in the near-term, and also noted that RPS compliance can be attained through an alternate compliance payment. Thus, it is not essential to build new renewable generation at this time. Moreover, there are sufficient policy instruments in place in Connecticut to promote additional Class I resources, the draft noted. Accordingly, the draft rejected CEAB's recommendation for a solicitation for a bundled renewable energy, capacity and/or RECs-only portfolio at this time.

The Department would allow the procurement of RECs and bilateral contracting to stabilize or reduce standard offer rates.

While the Department believes that it is necessary to have a process in place to plan and make decisions in event that markets do not produce needed resources, without further direction to the contrary by the legislature, the draft states that, "the Department believes that we must continue to rely on competitive markets to provide generation resources."

"The IRP can provide an important backstop

but it should be used sparingly when there are clear deficiencies in the market response. It is important that development of resources, long-term contracting by the EDCs and other recommendations be considered in the context of our electric industry/regulatory paradigm and the changes that could result," the draft says.