

Energy Choice Matters

February 11, 2009

Anderson Suggests Grandfathering Current REPs from Staff Liquid Capital Proposal

PUCT Commissioners grappled with proposals to increase REP financial requirements during yesterday's open meeting, but failed to reach any definitive consensus for a liquid capital requirement other than agreeing that the current \$100,000 level is too low (35767).

Otherwise, Commissioners did not reach any conclusions on which REPs, if not all, should be subject to the requirements, and whether the requirement should remain level over time, or decrease for a variety of factors.

Commissioner Kenneth Anderson said his problem with Staff's proposal, which would apply a \$3 million liquid capital mandate on all REPs not meeting investment grade or equity criteria, is that it is not tied to factors which dictate a REP's financial risk, such as the REP's size and nature of its customer base. Anderson feared an arbitrary number, whatever it may be, would create only an illusion of protection, while driving REPs out of the market.

Anderson proposed establishing different criteria to maintain a REP certificate versus applying for a REP certificate, which would act to grandfather existing REPs from new liquid capital requirements (or otherwise apply separate, perhaps lower standards to current REPs). Anderson would condition such grandfathering on the REP actually serving load (as opposed to merely holding a certificate). Such REPs serving load have demonstrated that they can effectively manage risk, and Anderson doesn't want to see them driven out of the market.

Another concern voiced by Anderson is ensuring that new REPs posting the required capital for certification don't simply take out a loan from an affiliate company or investor for the purposes of certification, and repay the loan as soon as certification is granted, leaving the REP undercapitalized.

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PJM Files Tariff Language on Process for EDCs to Challenge Retail Customer Load Response

PJM filed proposed revisions to its tariff and operating agreement to clarify its obligations relative to state actions concerning retail customer participation in PJM's demand response programs. PJM said the changes ensure a more efficient registration process for customers while recognizing the state's role if the state decides to bar participation of retail customers in PJM load response programs.

PJM noted the lack of clarity in the current tariff has led some electric distribution companies to provide their own interpretation of state laws regarding retail customer participation in PJM load response programs, and further seeking to deny customer registrations. Such actions have turned the registration process into a forum for legal disputes over state law, PJM said. Higher transaction costs from a prolonged and contested registration process could discourage end users and curtailment service providers from participating in load response programs, PJM said.

In Order 719, FERC held that end users may participate in RTO load response programs so

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CL&P Reports Fourth Quarter Shopping Data

CL&P reported switching statistics for the months of October, November, and December 2008. CL&P reporting had been delayed by customer information system upgrades.

3rd Party Supplier	Dec. '08 Residential	Dec. '08 C&I	Dec. '08 Total	Nov. '08 Total	Oct. '08 Total
CLEARVIEW ELECTRIC	1	0	1	1	1
CONSOLIDATED EDISON SOLUTIONS, INC.	1,413	1,185	2,598	2,566	2,690
CONSTELLATION NEWENERGY, INC.	865	8,774	9,639	9,711	9,184
DIRECT ENERGY BUSINESS LLC	110	1,512	1,622	1,311	1,268
DIRECT ENERGY SERVICES LLC	13,691	3,682	17,373	17,543	17,589
DOMINION RETAIL INC	42,108	1,759	43,867	44,072	44,280
GEXA ENERGY CONNECTICUT, LLC	1	119	120	77	61
GLACIAL ENERGY OF NEW ENGLAND INC	174	1,318	1,492	1,490	1,447
HESS CORPORATION	312	385	697	696	692
INTEGRYS ENERGY SERVICES	390	3,230	3,620	3,670	3,610
LIBERTY POWER HOLDINGS LLC	0	115	115	114	116
MXENERGY ELECTRIC INC	1,779	3,222	5,001	5,146	5,360
PUBLIC POWER & UTILITY, INC	6,750	1,590	8,340	7,524	7,506
SEMPRA ENERGY SOLUTIONS LLC	7	926	933	893	889
SUEZ ENERGY RESOURCES NA	3	434	437	363	341
TRANSCANADA POWER MARKETING LTD.	27	2,131	2,158	2,120	2,126
WHOLE FOODS MARKET GROUP INC	0	4	4	4	4
Total All 3rd Party Suppliers	67,631	30,386	98,017	97,301	97,164

Aggregate Data, Dec. '08

Last Resort Service-CL&P		%
TL # ALL Accts	1,213	
TL ALL MWhs	466,754.420	
TL 3rd Party Accts	968	79.8%
TL 3rd Party MWhs	410,427.093	87.9%
C&I SS-CL&P		%
TL # ALL Accts	121,581	
TL ALL MWhs	647,860.306	
TL 3rd Party Accts	29,418	24.2%
TL 3rd Party MWhs	349,711.948	54.0%
Residential SS-CL&P		%
TL # ALL Accts	1,088,909	
TL ALL MWhs	923,623.088	
TL 3rd Party Accts	67,631	6.2%
TL 3rd Party MWhs	70,801.074	7.7%
Total All CL&P		%
TL # ALL ACCTS	1,211,703	100%
TL ALL MWhs	2,038,237.814	100%

Clean Energy Options Data, Dec. '08

CT Clean Energy Options Accounts	Residential	Small C&I	Total
Community Energy 50%	1,966	18	1,984
Community Energy 100%	9,640	263	9,903
Sterling Planet 50%	2,186	17	2,203
Sterling Planet 100%	6,981	203	7,184
Total	20,773	501	21,274

Data as reported by CL&P

UI Reports January 2009 Shopping Data

3rd Party Supplier	Jan. '09 Residential	Jan. '09 C&I	Jan. '09 Total	Dec. '08 Total
Consolidated Edison Solutions	1,033	657	1,690	1,799
Constellation New Energy, Inc.	209	2,962	3,171	2,949
Direct Energy Business, LLC	10	646	656	598
Direct Energy Services, LLC	6,093	1,101	7,194	6,404
Dominion Retail, Inc.	15,744	1,092	16,836	16,925
Gexa Energy Connecticut, LLC	-	67	67	57
Glacial Energy of New England, Inc.	28	353	381	378
Hess Corporation	-	60	60	55
Integrays Energy Services, Inc.	3	1,732	1,735	1,642
Liberty Power Delaware, LLC	-	23	23	23
MX Energy	1,289	975	2,264	2,303
Public Power & Utility, Inc.	1,759	366	2,125	2,119
Sempra Energy Solutions	30	616	646	477
Suez Energy Resources NA	-	104	104	96
TransCanada	8	451	459	460
Total All 3rd Party Suppliers	26,206	11,205	37,411	36,285

Aggregate Data

Last Resort Service-UI		%
TL # ALL Accts	290	
TL ALL MWhs	134,131	
TL 3rd Party Accts	251	87%
TL 3rd Party MWhs	124,563	93%
C&I SS-UI		%
TL # ALL Accts	38,110	
TL ALL MWhs	168,200	
TL 3rd Party Accts	10,954	29%
TL 3rd Party MWhs	82,332	49%
Residential SS-UI		%
TL # ALL Accts	290,233	
TL ALL MWhs	227,832	
TL 3rd Party Accts	26,206	9%
TL 3rd Party MWhs	23,504	10%
Total All UI		%
TL # ALL ACCTS	328,633	100%
TL ALL MWhs	530,163	100%

Clean Energy Options Data

CT Clean Energy Options Accounts	Residential	Small C&I	Total
Community Energy 50%	279	2	281
Community Energy 100%	2,688	43	2,731
Sterling Planet 50%	237	8	245
Sterling Planet 100%	802	63	865
Total All CT Clean Energy Options	4,006	116	4,122

Data as reported by UI

UI Files Last Resort Service Rates

United Illuminating filed Last Resort Service rates for the three months starting April 1.

LRS Generation Rates: Classes GST, LPT, NUS

	Peak ¢/kWh	Off-peak ¢/kWh
April	7.9841	7.9841
May	7.9142	7.9142
June	8.2818	8.2818

PSE&G Proposes 120 MW of Utility-Owned Solar

Public Service Electric & Gas filed with the New Jersey BPU to build 120 MW of utility-owned solar generation at a cost of \$773 million.

The “Solar 4 All Program” would include pole-attached solar installations along with centralized developments at brownfields and undeveloped sites, plus installations on PSE&G rooftops as well as facilities built in partnership with local governments. Though PSE&G said it would partner with solar developers on construction, PSE&G would own and operate the facilities.

Each utility investment would be recovered over 15 to 20 years, but PSE&G said the rate impact would be offset by the value of the electricity and solar RECs produced by the systems as well as federal tax credits that would flow back to utility customers. PSE&G would support a mechanism that would limit the amount of solar RECs it sells via auction if the state already had enough solar RECs to satisfy the solar requirement for that year.

PSE&G said the program would, “encourage growth for the solar industry by providing financing and capital to build solar capacity in these difficult economic times.” The solar facilities would satisfy nearly 7% of the state's RPS requirements through 2020.

Installation costs are expected to be \$6.44 per watt of installed solar capacity. PSE&G is proposing to recover all direct program costs, including costs related to its invested capital. The impact on a typical residential customer is forecast to be 10 cents per month in the

first full year of the program, and would increase up to 35 cents per month in 2013.

Marketers Argue for Competition in Calif. Smart Grid

Smart grid deployment in California should be a “collaborative” effort, and not a utility-only function, the Western Power Trading Forum said in a California PUC proceeding on smart grid development (R. 08-12-009).

Allowing third party involvement in smart grid construction and operation diversifies risk, WPTF argued, as shareholders of third-party firms would bear the primary risks associated with technology, timing and cost overruns.

WPTF called using a competitive bidding process for investments up to the meter a good idea, though it was wary of the prolonged style of procurements used in IOU energy solicitations. Third-party involvement could include administration and operational duties in addition to equipment solicitations, WPTF said.

Wal-Mart similarly contended that the Commission must emphasize, “the rapidly expanding and accelerating role of the private sector at the distribution level.” Competition, particularly at the metering point and on the customer’s side of the meter, should be acknowledged and embraced as one of the key drivers of relevant smart grid statutes, Wal-Mart said.

“The scope of this proceeding lends itself to an ‘open checkbook’ of spending,” WPTF warned, arguing that an all-party regulatory approach is likely to achieve more benefits than a “let’s just leave it to the utilities” approach.

Noting the essentially flat rates in current energy pricing, WPTF noted, “[t]he real unexploited benefits from Smart Grid deployment, however, are in the private market after the meter, such as increased efficiency and demand response in portfolios of load served by competitive energy service providers, ultimately leading to significant benefits such as improvement in system load factors for commercial and industrial customers.”

Establishing appropriate rate structures that send clear price signals to all customers and not merely to large commercial and industrial customers would be a “clear measure” of progress toward smart grid deployment, WPTF said.

WPTF stressed that the PUC must ensure that consumers have the right to delegate information access to real-time data to any third party that the customer chooses, subject to the requirement such delegation be verifiable and delivered to the utility, or other relevant party.

However, WPTF argued that, “utilities have always opposed third party data access and thrown up barriers to it.” The smart meter programs should not give utilities monopoly control over customer information, WPTF said.

Briefly:

Aggregator Power Light Energy to Place Customers with StarTex

Edinburg, Texas-based aggregator Power Light Energy, which is seeking a license to pool residential and C&I customers at the PUCT, informed the Commission that it will initially assign pooled customers to StarTex Power in a supplement to its application. Customers may be assigned to other REPs in the future, Power Light Energy said.

Nstar Files Large C&I Basic Service Rates

Nstar filed new basic service rates for large C&Is to take effect April 1, 2009. The three-month fixed basic service price for NEMA C&Is using more than 25,000 kilowatt-hours per month would fall to 7.906¢/kWh (from the current 10.673¢), and the SEMA price for such large C&Is would fall to 8.134¢/kWh (from the current 11.963¢).

Md. PSC Sets Rulemaking on Electric, Gas Regs

The Maryland PSC set rulemaking sessions on March 10 to consider both proposed rules on electric utility-supplier coordination and billing (RM 17), and regulations governing competitive gas supply (RM 35). The most recent proposals were published in the state

register in December (Matters, 12/22/08).

Md. PSC Sets Hearing on Gap RFP Results

The Maryland PSC will hold a hearing on February 25 to consider the responses to Gap RFPs issued by the state’s four investor-owned utilities for demand response resources, and asked for stakeholder comments regarding potential procurement ahead of the hearing. The Commission asked parties to comment on how much capacity the IOUs should procure (and for what years) to avoid reliability shortfalls, and how to determine whether responses to the RFPs are priced reasonably, if only reasonably priced resources should be accepted (Case 9149).

FERC OKs WestConnect Tariffs

FERC accepted tariffs and a participant agreement implementing the WestConnect Point-to-Point Regional Transmission Service Experiment, consistent with a September declaratory order on the market structure (Matters, 9/19/09). Under the two-year experiment, eligible transmission customers will be offered hourly non-firm transmission service, on a non-discriminatory basis, over two or more transmission systems of the participants. Transmission customers will pay for service at the highest rate for hourly non-firm transmission service posted on the OASIS of the participants involved in the transaction. Transmission customers will also be charged for the transmission losses, scheduling, system control, and dispatch charges of the participants to the transaction, reactive supply and voltage control charges for the participants on the last segment of the transaction, and an administrative charge. IOU participants include Arizona Public Service, El Paso Electric, Nevada Power Company, Public Service Company of Colorado, Public Service Company of New Mexico and Tucson Electric Power (ER09-409).

Google Planning Power Usage Application

Search engine provider Google has developed a software tool called Google PowerMeter, now in prototype, which draws data from smart meters and energy

management devices to give customers access to their home electricity consumption, including a graph of consumption over time. Google is to release technical specifications to the free and scalable tool so anyone can build applications from it.

O'Malley Supports Bill to Give PSC Oversight of Constellation-EDF Deal

Maryland State Delegate Brian McHale, D-Baltimore, proposed legislation (HB 737) that would give the Maryland PSC explicit authority over EDF's acquisition of 49% of Constellation Energy's nuclear unit. Gov. O'Malley supports the bill.

REP Certification ... from 1:

Staff's proposal would require quarterly financial reports from REPs, who have balked at the burden such reports would create. Chairman Barry Smitherman called the prospect of REPs not preparing regular financials "frightening." Anderson said that while some REPs may not produce quarterly reports, the idea a REP would not produce monthly statements is incomprehensible, and suggested REPs be permitted to file monthly statements in lieu of quarterly financials.

During the open meeting, REPs explained Staff's requirements for audited financials with accompanying footnotes would be a departure for many REPs and thus require new processes and possible employees, although REPs do maintain regular unaudited financial statements. Staff said it would consider accepting unaudited financials verified by an officer of the REP instead.

Smitherman made note of the Commission's staffing levels and resources, and questioned how deep the Commission wanted to delve into REPs' positions. Financial reporting could raise public expectations that the Commission will function like the SEC, Commissioners said.

Commissioners did find consensus on some issues, however, as all three supported Staff's approach to deposit protection, which would allow investment grade REPs to keep customer deposits in restricted accounts, while requiring non-investment grade REPs

to use escrow accounts. Commissioners also said TDUs should not be allowed to collect deposits from REPs beyond what is currently allowed, and that TDU bad debt from REP defaults should be recovered via regulatory assets, without the requirement for the TDU to show the regulatory asset is needed to maintain financial integrity.

PJM ... from 1:

long as their relevant retail electric authority (such as a state PUC) did not prohibit participation (Matters, 10/17/08).

Under PJM's revised registration process, end users and curtailment service providers would first be required to ensure that there are no state laws or regulatory orders barring their PJM load response participation.

An electric distribution company protesting its retail customers' registration would be required to produce within 10 business days either (1) an order from the relevant regulatory authority barring participation; (2) an opinion from the regulatory authority's legal counsel attesting to the existence of an order or law barring participation; or (3) an opinion from a state attorney general, on behalf of the relevant regulatory authority, attesting to the existence of an order or law barring participation. PJM would deem that the customer or load to be registered is not bound by any prohibition on participation if no objection is filed within 10 business days.

PJM said that its changes recognize that the relevant retail regulatory authority could prohibit all customers from participation in PJM load response programs, or prohibit only certain customer classes. However, PJM does not intend to provide independent, conditional, or one-off customer-by-customer decisions regarding participation, as such actions could be discriminatory and inconsistent with Order 719, PJM said.