Energy Choice Matters

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Four Retailers Win Customers in Dominion East Ohio SCO Auction

PUCO approved results from Dominion East Ohio's initial Standard Choice Offer (SCO) auction, in which four competitive gas providers won the right to supply DEO customers at the retail level, rather than supplying DEO with wholesale gas.

The SCO auction, DEO's next phase of exiting the merchant function, began with a descending clock auction to establish a retail price adder to the NYMEX prompt month settlement price at which competitive suppliers will serve customers. However, after setting the retail adder, the auction then transitioned to an ascending clock auction in which the retail suppliers bid on the right to supply specific customer load at the retail level, representing the value associated in serving the customer under the supplier's brand name, rather than through wholesale supply subsequently retailed to customers by DEO.

Under the SCO, customers will be placed into a closer retail relationship with the supplier that bid to serve them, as the customer will have its winning retail supplier listed on their monthly bill from DEO. The SCO auction was for nine tranches of approximately 3.4 Bcf of gas annually, with each tranche comprised of approximately 24,300 residential customers and 2,400 non-residential customers.

Ten competitive retail natural gas service (CRNGS) providers were registered for the SCO auction, but only nine submitted bids. After eight rounds, the retail adder for SCO service was set at a price floor of $1.40/Mcf (with the floor level determined by results from a Standard Service Offer held the same day).

Five bidders remained in the auction when the price floor was hit. At that time, the auction proceeded with the ascending auction, in which retailers bid an amount per tranche, initially set at

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ALJs Reject Reduced MDN Limits in Nicor Rate Case Proposal

Nicor's proposal to reduce the Maximum Daily Nominations (MDN) of transportation customers in the months of July through October, and in the months of March and April, would be rejected in a proposed rate case decision from three Illinois Commerce Commission ALJs, because Nicor did not prove such a reduction is needed to protect sales service customers (08-0363, Matters, 10/27/08).

Nicor contended that the reductions to the MDN limitations are necessary to reduce the likelihood that it would have to impose pipeline caps. But Nicor has not imposed such caps in the last 16 months, the ALJs noted, nor did the utility show how reduced MDN limits would decrease the need for such caps. Furthermore, the record contains no analysis that demonstrates that the activities of transportation customers have ever actually interfered with Nicor's efforts to cycle its storage fields, the ALJs said.

"Nicor has given this Commission no evidence establishing that there is 'problem' that needs

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PUCO Revises MRO Market Monitoring Provision in Rehearing Order

PUCO made several changes to its rules for Standard Service Offers and related provisions of SB 221, among which was a clarification that could remove one of the barriers to Market Rate Offers, by rewording the requirement for independent market monitoring of the RTO in which the utility's MRO would operate.

Under the originally adopted rules (Matters, 9/18/08), for a utility to set rates via an MRO, it was required to be a member of an RTO that retains an "independent market monitor" which has the ability to identify any potential for the exercise market power, and the authority and ability to effectively mitigate the conduct of market participants. That requirement has hindered MRO applications, as FERC has taken certain types of independent market monitors out of the mitigation role. FirstEnergy's MRO was ejected because, among other reasons, FirstEnergy had not shown that the Midwest ISO's market monitor met criteria for market monitoring and mitigation, due to uncertainty at FERC about market monitors' roles.

Under the new rules, RTOs must retain an independent market-monitor "function" that can identify market abuses and mitigate behavior. In explaining the change, PUCO said, "The market monitor **or RTO** must have the flexibility to identify and mitigate the exercise of market power in the markets essential to creating a competitive market," [emphasis supplied]. The language suggests that mitigation administered by RTOs, rather than market monitors, may be acceptable in an MRO.

On rehearing, PUCO also granted a request from consumer advocates regarding the information that must be submitted as part of an MRO's competitive bidding plan, as the Commission will require MRO applicants to include an explanation of known and anticipated obstacles that may create barriers to the adoption of the bidding process.

In terms of rehearing requests from marketers, PUCO declined to provide for any sort of competitive supply generation rate credit that would be required if an electric security plan includes deferrals of standard service offer generation rate increases. Such credits, which would act to keep rate deferrals competitively neutral, are better addressed in individual ESP proceedings, PUCO said.

PUCO also denied marketers' requests to prohibit congestion costs, typically considered a generation expense, from recovery through the transmission rider allowed under SB 221. Statute (Section 4928.05(A)(2), Revised Code) specifically provides for the recovery of congestion costs through the transmission rider, PUCO said. However, PUCO did clarify that where congestion costs are already being recovered through the generation rate, it would prohibit use of the transmission rider to double recover such costs.

The Commission denied Duke Energy's request that PUCO allow existing capacity newly dedicated to standard service offer customers to qualify for cost recovery via unavoidable surcharge. PUCO said SB 221 expressly limits unavoidable surcharges to new capacity.

Utilities applying to sell or transfer generation assets must include in their applications information regarding the fair market value and the book value of the assets being transferred, and state how the fair market value was determined, PUCO held, granting a request from consumer advocates.

DPUC Proposes Rules to Allow REC Banking

The Connecticut DPUC has proposed regulations to permit electric suppliers and distribution companies to bank RECs for use in the following two years, in draft revisions to Section 16-245a-1 of the Regulations of Connecticut State Agencies (08-09-01).

The REC banking rules would follow provisions currently in place in Massachusetts, Rhode Island, and Maine, the DPUC said. REC banking should help stabilize REC prices, the DPUC added, by alleviating excess REC supply.

Banked RECs could not account for more than 30% of a supplier's requirement for a specific RPS class in a given year.

To be eligible for banking, a supplier must have complied with RPS exclusively by means of RECs each year it has had a compliance obligation, and not through payments to the Renewable Energy Investment Fund.

Only excess RECs could be banked (e.g., a supplier could not buy RECs only to bank them for future use while paying the alternate compliance penalty in the current year).

Currently, the only flexibility in RPS compliance available to Connecticut suppliers is a concept called “borrowing,” which allows a supplier to borrow RECs from the first quarter of Year 2 to comply with the REC requirement in Year 1.

TIEC Appeals Tabling of PRR 776

Texas Industrial Energy Consumers has appealed the tabling of Protocol Revision Request (PRR) 776 (Automatic MCPE Adjustment During Intervals of Non-Spinning Reserve Service Deployment), which was yet again deferred at last week’s meeting of ERCOT’s Technical Advisory Committee (Matters, 10/24/08).

ERCOT’s board will consider the appeal at its February 17 meeting, but some market participants, such as Luminant, have argued that the only issue before the board will be TAC’s vote to table the PRR. The PRR itself cannot be considered by the board, Luminant claimed, since TAC has not taken “action” on it -- it was neither approved nor rejected. However, ERCOT’s general counsel, in an email to TAC members, noted the question is more complex, and the Board may have greater authority since the appeals process is different from the normal PRR process.

PRR 776, first proposed by TIEC in August, has been tabled three times at TAC, due to disagreements between load and generators. The PRR seeks to eliminate ex post MCPE adjustments during intervals in which Non-Spin Reserve Service is deployed, in order to provide responsive load with greater price transparency. Various iterations of the proposal would provide such transparency by converting supplemental operating reserve MWs (Non-Spinning Reserve Service) into energy in the Balancing Energy Service offer stack, which some generators have termed a must-offer requirement which would depress balancing prices by increasing balancing supply while demand is held constant.

A vote to approve a version of PRR 776 with language from TIEC and DB Energy Trading garnered support from consumers, munis and REPs, but fell a vote shy of the required 2/3 majority to be approved, due to opposition from generators and wholesale marketers.

Some generators and wholesale marketers have sought to link PRR 776 with PRR 791, Shortage Pricing Mechanism, as both PRRs deal with scarcity pricing. PRR 791 would create "Virtual QSEs" that can establish pricing during periods of energy shortage, in an effort to create scarcity pricing.

Luminant, in comments on the appeal, argued that by passing PRR 776 without the shortage pricing mechanism in PRR 791, the ERCOT market, “will likely incur near and long term damage to its energy-only market design by eliminating needed shortage pricing,” since converting non-spin MWs into the balancing energy stack would depress short-term and long-term prices during times of capacity shortages.

PUCO Clarifies Obligations of Marketers in Gas Emergencies

Competitive retail natural gas suppliers will not be responsible for providing customers with notices of gas system emergencies, PUCO clarified in releasing updated rules covering emergencies arising out of energy shortages and related occurrences.

As proposed, PUCO would have required gas “suppliers” to send out notices regarding curtailments and gas shortages, which would have covered competitive retailers and led to customer receipt of duplicative and possibly confusing notices from both their LDC and retail supplier.

In the final rules, PUCO held that only

entities delivering gas to the customer, such as LDCs, should send out notices, except it held that governmental aggregators will be required to send such emergency notices as well.

The Commission declined to codify in rules specific policies regarding confiscation of marketers' gas during emergencies, and compensation for such confiscation. Such matters are better addressed on a case-by-case basis, PUCO said. PUCO disagreed with marketers who had argued the Commission lacks authority during emergencies to require reallocation of gas from one marketer or supplier to another marketer or supplier, both of which may be engaged in commercial activities both in Ohio and in interstate commerce.

PUCO affirmed that for curtailment purposes, similarly situated customers should not be treated any differently, regardless of the customer's status as a sales or transportation customer. The Commission agreed with marketers that is has no authority over marketers in pre-emergency situations, prior to a declared emergency.

Allegheny Sees Less Risk of Pa. Mitigation Given Lower Prices

The significantly lower generation rate increases now projected in Pennsylvania when rate caps expire ought to reduce the probability of legislative action on rate mitigation, Allegheny Energy CEO Paul Evanson said during an earnings call.

The projected rate increases based on current prices at Allegheny Power have fallen from about 40% to 18%, Evanson noted, adding that, "once you get under 20% you're in a whole different ballgame, and customer reaction and legislative reaction changes significantly."

Capitalizing on the projected lower rates prompted Allegheny to seek authority to accelerate its purchase of residential default service supplies, from June of this year to April, to keep mitigation threats at bay (Only in Matters, 2/10/09). Evanson reported he thought the PUC staff's initial reaction to the accelerated purchase plan was positive.

For the fourth quarter, net income from Generation and Marketing was down sharply at $7.6 million, versus $84.4 million a year ago. The results include a net unrealized pre-tax loss of $116.3 million from economic hedges that do not qualify for hedge accounting. On an adjusted basis, Generation and Marketing net income was $78.5 million versus $52.6 million a year ago. Key factors contributing to the rise in adjusted results include increased plant output, the effects of marketing contracts, hedging activities and capacity prices, lower special maintenance costs and lower interest expense, partially offset by higher coal costs and higher income taxes.

Allegheny forecast a $70 million hit to its 2009 margin due to a 3-4 million megawatt hour open position, given the current depressed power prices. The end of residential rate caps at its Maryland utility on January 1, 2009, is forecast to contribute $90 million to 2009 pre-tax income.

On a consolidated basis, Allegheny Energy posted yearly earnings of $395.4 million versus $412.2 million a year ago.

Briefly:

SaveOnEnergy.com Launches Green Website

Online broker SaveOnEnergy.com launched a new green energy and products website, SaveOnGreenEnergy.com, to broker residential and C&I customers for both renewable commodity and REC options.

PUCT ALJ Denies Certification of Exelon-NRG Question

A PUCT ALJ denied Staff's petition to certify the question of whether Exelon's application at the Commission to acquire NRG Energy in a hostile transaction is premature (Matters, 1/30/09). The plain language of PURA contemplates that the entity proposing the acquisition may apply alone, and does not expressly require the Commission to consider the probability that the proposed transaction will ultimately occur, the ALJ noted (36555).

Md. PSC Denies Lower Bond for LPB Energy

The Maryland PSC denied a request from LPB Energy Consulting (MRDB Holdings LP) to reduce its current $10,000 bond required for its electricity and natural gas broker licenses.

PUCO Denies Rehearing on Duke Residential Unavoidable Charges

PUCO denied a rehearing request from the Ohio Consumers' Counsel regarding its approval of Duke Energy's electric security plan which makes Riders SRA-CD (Capacity Dedication) and SRA-SRT (Market Capacity Purchases) nonbypassable for residential customers, though bypassable for commercial customers. PUCO reiterated its finding that the riders do not constitute standby rates, and thus may be unavoidable for residential customers (Matters, 12/18/08).

FERC Requires AFC-ATC Conversion for MISO Drive-Through Transactions

FERC granted the Midwest ISO a limited waiver of the Commission's requirement to convert Available Flowgate Capacity (AFC) into Available Transfer Capability (ATC) and to post path ATC, Total Transfer Capability, Capacity Benefit Margin and Transfer Reserve Margin on Midwest ISO's OASIS for paths within its energy market footprint, but held MISO must continue to provide the information for customers seeking Drive-In, Drive-Out, or Drive-Through transmission service (OA08-14).

SCO Auction *... from 1:*

$75,000, that the bidder would pay to DEO to serve a tranche of customers. Sealed bids at the conclusion of the ascending auction resulted in four bidders bidding ten tranches at a prorated $144,900 per tranche. DEO will credit all of the payments to its Transportation Migration Rider-Part B, for a total of $1.449 million.

Customers under the SCO will pay the SCO rate and applicable sales tax, instead of paying excise tax as do Standard Service Offer customers.

PUCO also approved results from the Standard Service Offer (SSO) auction for wholesale supplies to serve Percentage of Income Payment Plan (PIPP) customers and customers ineligible for choice. Seven bidders (of eight registered) competed for three tranches of approximately 5 Bcf of gas annually, with a limit of one tranche per bidder.

Accordingly, three suppliers each won a single tranche, with the auction producing a retail adder of $1.40/Mcf. The winning SSO price was used as the price floor for the SCO auction as PUCO held that customers served under the wholesale SSO auction should not face a rate higher than those served under the retail SCO auction.

Both the SCO and SSO retail adders will take effect April 1, 2009, and last one year. The SSO and SCO auctions were conducted online by World Energy Solutions. Winning suppliers in both auctions are confidential so they may arrange supply and transportation.

Nicor *... from 1:*

addressing by changing the MDN limitations," the ALJs found.

The ALJs also held that Nicor should base Storage Banking Service calculations for transportation customers on 149.74 Bcf of storage, the amount approved in Nicor's previous rate case. Nicor had petitioned to lower the amount used in the calculations to 134.6 Bcf, based on the operational capacity of the fields, but the ALJs found no support to change the calculation from the maximum capacity of the fields to the lower amount of Nicor's expected cycling.

Nicor and Constellation NewEnergy's compromise proposal on intraday nominations would be accepted under the proposed decision, on a pilot basis of four years. Under the plan, Nicor would add an additional late nomination cycle (a modified evening cycle) with a deadline of 3:00 p.m. on the business day before the start that would be capped, according to Nicor's capacity availability. The modified evening cycle nomination would: (1) be offered on a firm basis to the extent the volume is within the 1:00 p.m. posted availability for that date; (2) be available to all of Nicor's transportation customers; and (3) include, at a minimum, an additional 20,000 MMBtu on a daily basis over and above the volume of timely cycle nominations.

Transportation customers would be allowed to trade, once per year, storage balances even if none of the parties involved is overfilled, under the ALJs' proposed order. Currently, trading can only occur when one of the parties in the transaction has an excess storage position. Nicor and Vanguard Energy Services had reached a compromise that would allow storage trading only among smaller Rider 25 customers even when a party is not overfilled. ICC Staff argued such expanded trading should not be limited to only certain classes of transportation customers, and the ALJs agreed. The ALJs also rejected Nicor's proposal to increase the Excess Storage Balance Transfer fee from $15 to $24.

The ALJs' rejected Staff's argument to impute a $0.25 per bill charge for billing services that Nicor provides to Nicor Energy Services, instead of the current $0.112 per bill charge. Staff had noted that another Nicor affiliate, Nicor Solutions, pays $0.25 per bill.

However, the ALJs agreed that $0.112 per bill is appropriate since it is the fully distributed cost of the billing service that Nicor provides Nicor Energy Services, and because the billing service offered to Nicor Energy Services is different from the service offered to Nicor Solutions. Nicor Energy Services is an HVAC/appliance service vendor, while Nicor Solutions is a competitive commodity supplier.

Under the proposed decision, a proceeding would be initiated to investigate whether Nicor's affiliate Operating Agreement is in the public interest and to make appropriate revisions, after Staff raised concerns about the current agreement during discovery (Matters, 10/24/08). The investigation would consider Nicor employees that are dedicated full-time to Nicor Gas affiliates, facilitation of affiliate endeavors through utility activities, and annual reporting and auditing requirements.

The ALJs would also approve a Memorandum of Understanding among Nicor and several competitive suppliers under which Nicor would increase the number of days that a customer has to select a new Customer Select Supplier after returning to Nicor from 45 to 120 days, and to make a residential customer mailing list available to suppliers. Furthermore, under the MOU Customer Select customers shall receive a credit for gas in storage as part of the Transportation Service Credit, and Nicor would calculate a supplier's end-of-month Storage Inventory Target Levels during the winter as a percentage of month-end storage capacity, as opposed to a percentage of the preceding November 1 inventory.