Energy Choice Matters

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REPs Could Post $1.5 Million Letter of Credit Under Latest PUCT Staff Draft

REPs in the ERCOT market could post an irrevocable stand-by letter of credit in the amount of $1.5 million to meet PUCT financial standards under the latest REP certification proposal from PUCT Staff (Matters, 2/11/09).

The $1.5 million letter of credit would replace Staff's proposal that would have required REPs to carry $3 million in liquid capital. REPs would also be able to meet financial standards via an investment-grade credit rating or tangible net worth greater than or equal to $100 million.

The letter of credit, "would increase the quality of the financial criterion supporting certification but would allow a lower minimum standard in terms of dollar amount for market entry," compared with Staff's earlier proposal, Staff said.

In the event it would need to be called upon, proceeds from the letter of credit would first be used to pay for the return of customer deposits and prepayments that exceed the customer's obligation to the REP to pay for electric service. Proceeds would then be applied toward administrative penalties assessed under Chapter 15 of PURA, followed by services provided by ERCOT for serving customer load, and finally, towards services provided by a TDU. Any remaining proceeds would be returned to the REP.

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Latest PUCT Staff POLR Proposal Includes Customer Payment History Database

An ERCOT customer bill payment history database would be created under the latest Provider of Last Resort proposal from PUCT Staff, to be used by POLRs to determine whether a request for a deposit would be appropriate (Matters, 12/23/08).

Under the draft, the electric bill payment history database shall not be used by REPs for marketing purposes. All REPs would be required to report customer payment information to the database administrator, including:

- Customer name, ESI ID, service address, phone number, email address and, if available, social security number;

- Current payment status (i.e. whether the customer is currently delinquent or not); and if delinquent, the total amount delinquent; and total amount delinquent greater than 60 days; and

- Customer payment information in format established by database administrator; which at a minimum must include an indication of whether the customer was late in paying their bill more than once in the last 12 consecutive months.

POLRs would be prohibited from imposing a deposit on a residential customer if the customer possesses a satisfactory payment history documented in the bill payment history database. The database administrator would be permitted to collect fees from REPs to access information contained in the database.

Staff's latest draft would retain the previously proposed waterfall approach of using voluntary,

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Met-Ed/Penelec File Post Rate Cap Procurement Plan

Met-Ed and Penelec filed with the Pennsylvania PUC default service procurement plans for the period January 1, 2011, when rate caps expire, through May 31, 2013, which include hourly pricing for all customers above 400 kW.

The commercial class, defined as C&I customers under 400 kW, would receive fixed pricing reconciled quarterly. For the period January 1, 2011 through May 31, 2011, the commercial class would be served on a portfolio of five-month contracts procured during four separate procurements in 2010. Contracts for the period after June 1, 2011 would be for 12-months, and would be purchased over four procurements held throughout 2010-11 for the 2011-12 delivery year, and throughout 2011-12 for the 2012-13 delivery year. The commercial class would not have any spot market procurements.

Residential customers would also be served on a mix of five-month contracts procured in 2010 for the first five months of 2011. Starting June 1, 2011, residential customers would be served on a mix of one-, two-, and four-year contracts, with 5% of load supplied through spot purchases. Ten procurements laddered from May 2010 through March 2012 would create the portfolio. Residential prices would change quarterly.

All procurements would be through descending clock auctions administered by NERA Economic Consulting for full service load-following energy, capacity, ancillary services, transmission and losses. Winning bidders would also be responsible for alternative energy portfolio standard costs, except solar targets, which would be procured in a separate solicitation run by the Brattle Group.

The price to compare would include generation and transmission expenses, except Network Integration Transmission Service (NITS) costs, which would be collected via a nonbypassable rider.

Catalyst Energy USA Reorganizes as Nations Power

Catalyst Energy USA, once wholly owned by bankrupt Catalyst Energy Group, has reorganized as an LLC and applied to amend its REP certificate at the PUCT to recognize the change and rename itself Nations Power.

Nations Power is owned by former Catalyst Energy Group CEO Fernando de Aguero, and Ronald Sewell, founder EnergyComNetwork, which offers prepaid metering and other metering integration services. Aguero serves as president of Nations Power, and is also president of energy supply and management consultant Diversified Energy Supply, which he founded in late 2008. Aguero previously held positions at AGL and Mirant.

Catalyst Energy Group filed for Chapter 11 protection in October 2008, precipitated by losing a credit and supply arrangement with Constellation Energy. Its Georgia gas book was acquired by MXenergy. As a result of the of the Chapter 11 filing, Catalyst Energy Group sold all of its stock interest in Catalyst Energy USA.

Nations Power would meet PUCT financial qualifications via unused cash resources of at least $100,000.

Integrys Marketer Protests Release of Maine Standard Offer Bidding Data

Integrys Energy Services (Integrys) protested a decision by a Maine PUC hearing examiner to exclude Integrys' final bid prices in a recent Maine Public Service Standard Offer solicitation from confidentiality protections, on the basis that the prices are relevant to a complaint by the Integrys marketer at FERC regarding New Brunswick Power's market-based rate authority (Matters, 2/4/09).

The hearing examiner ruled that because Integrys "challenged" the results of the bid process at FERC, and indicated it was a losing bidder in the residential/small non-residential and medium non-residential classes, such information was relevant to the complaint, and no longer confidential.

However, Integrys repudiated those findings. First, Integrys noted it did not challenge the Standard Offer results in its FERC complaint, since the PUC retains jurisdiction. Rather, Integrys challenged New Brunswick Power's ability to sell at market-based rates. Further, Integrys said it not reveal in its FERC filing that it was a losing bidder, or that it had bid on the MPS residential/small C&I and medium non-residential classes. Integrys' bid prices are irrelevant to the issue at FERC of whether New Brunswick Power properly has market-based rate authority for the Maritimes Control Area, Integrys added.

The harm of disclosing confidential bid information is not just to the bidder itself, Integrys stressed, but to the entire competitive bidding process, as bidders will be disinclined to participate in future solicitations if they believe their pricing and strategy will be revealed to their competitors. Given the PUC's previously stated concern about the lack of bidders in the Northern Maine market, Integrys called it "extraordinary" that the Commission would reveal bidders' identities and pricing.

If the disclosure was meant to be punitive, the impact on the Standard Offer bid process is far more detrimental than the impact felt by Integrys, Integrys said. Integrys also hoped that the bids were not released in answer to the announcement that several Boralex biomass facilities intend to retire due the results of the solicitation. The Boralex facilities say they currently sell generation to Integrys, which Integrys uses to meet its current Standard Offer obligation.

While reaffirming the original protective order treating the bids as confidential cannot undo the harm, Integrys contended that the PUC needs to send a "strong message" to market participants assuring them that the disclosure was wrong and will not happen again, so suppliers can bid with confidence in the process.

Meanwhile, the Boralex facilities urged the PUC to reconsider its awarding of the MPS contract to New Brunswick Power, based not only on the current FERC complaint, but on reliability concerns, pointing to the limited firm transmission between New Brunswick and Northern Maine if New Brunswick intends to rely on imported power. The Boralex facilities also alleged that New Brunwick's bid "appears" to be below its annual variable cost of providing sufficient energy and capacity to reliably provide Standard Offer Service, raising the specter of predatory pricing.

APPA Says Incumbents Should Procure SOS Supplies on Long-Term Contracts

A year after American Public Power Association CEO Mark Crisson assured Electric Power Supply Association CEO John Shelk that APPA was not seeking a return to cost-of-service regulation (Matters, 2/19/08), APPA essentially is proposing exactly that, in recommending day-2 RTO markets be transformed into balancing markets relying on cost-based pricing. Not confining its recommendations to wholesale markets, APPA favors allowing default service providers in retail access states to enter into long-term supply contracts, or to build their own generation to serve incumbent customers.

APPA said the changes are needed, "to move these markets from de facto oligopolies to more competitive markets, while ensuring reliable electric service at just and reasonable rates."

Current RTO-run energy and ancillary services real-time and day-ahead markets would be replaced by an RTO-run “optimization” market, in which customers could balance supply deficiencies or excess purchases, and generators could sell excess generation.

Offers to sell into the optimization market for both energy and ancillary services would be limited to generators’ marginal costs of generation. Generators would be required to submit their unit-specific operating costs to the RTO market monitor in advance to provide cost support for their offers. Prices would initially be set using a cost-based single-clearing price mechanism, with an evaluation of the results of that mechanism

after three years of operation.

Generators would be subject to a must-offer requirement into the optimization market for energy not already committed under bilateral contracts or owned generation arrangements.

FERC-jurisdictional generators entering into bilateral contracts with LSEs in an RTO region would not be subject to cost-based restrictions, i.e., they could use market-based rates if they have obtained such authority from FERC. However, APPA also recommended that FERC separately evaluate generation market power for long-term power supply products in determining seller eligibility for market-based rate authority.

Existing RTO-administered locational capacity markets would be phased out and capacity would be supplied through bilateral contracts entered into by LSEs with resource suppliers (both generation and demand response), LSE-owned generation arrangements and LSE-managed demand response.

The RTOs would determine and implement overall resource adequacy standards applicable to LSEs within the RTO footprint, with substantial input from states. States would establish resource acquisition processes to secure a diversified portfolio of generation and demand-side resources for state-regulated investor-owned utility (IOU) LSEs. Competitive procurements, including consideration of both LSE self-build/self-supply and third-party supplier options, would be conducted for state-regulated IOU LSEs, with an option for self-regulated LSEs to participate.

"Retail access policies would still be left up to individual states, but, under the APPA Plan, competitive LSEs providing service in retail access states would have to meet the rigorous resource adequacy requirements applicable to LSEs, either directly or through arrangements with third parties," APPA said.

APPA blamed the relatively short nature of most SOS solicitations for reinforcing the connection between RTO spot prices and bilateral prices. Changes that would allow default service providers to procure long-term supply arrangements would impose "discipline" on wholesale pricing, APPA said.

A key APPA goal is to increase the availability of long-term bilateral power supply contracts (e.g., a 10-year term) and opportunities for LSE-owned generation, "in turn enhancing the viability of financing new generation."

APPA found that it would be very difficult to "radically" overhaul the current RTO-operated markets, such as by reverting to the use of physical transmission rights rather than financial rights. To do so would upend numerous contracts and arrangements to serve load, as well as planned construction of power plants, APPA said.

APPA favors a moratorium on the expansion of RTO markets.

Three Marketers Oppose Expanded Capacity Release Exemption, Claiming Credit Concerns

The New York State Energy Marketers Coalition (NYSEMC) opposed a request from several New York LDCs which had asked FERC to clarify that FERC's exemptions from new tying and bidding requirements for capacity releases associated with state retail choice programs can extend to a retail marketer's asset manager, and not just the marketer itself (RM08-1, Matters, 12/25/08).

National Grid and other LDCs had requested clarification that an LDC releasing interstate pipeline capacity as part of a state-approved retail access program may release such capacity directly to a marketer's asset manager as long as such asset manager has an obligation to supply the retail marketer. Such releases have been requested so the asset manager, and not the retail marketer, is required to meet the pipeline's credit standards. FERC has ruled such releases may be sought on a case-by-case basis, but the LDCs are seeking blanket authorization across their systems.

"NYSEMC is concerned that if the requested relief is granted, it would allow marketers for whom the release benefit is intended to avoid meeting the pipeline's

creditworthiness requirements," it told FERC. Less credit worthy suppliers may be provided access to systems they would not otherwise be able to obtain, increasing risks in the event of default, NYSEMC cautioned.

"All market participants should have to meet the same credit requirements, and should be subject to the same rules with respect to released capacity," the New York marketers said.

"The granting of this request would make for an unlevel playing field, potentially diminishing the value of creditworthiness standards ... if the retail supplier for whom the release was made defaults in a utility sponsored retail access program due to credit issues, then there is a gap in the responsibilities of the parties, creating potential issues for the local utility system and other suppliers on the system, as well as the program generally," NYSEMC added.

"It is alarming that red flags are not going up when non-credit worthy suppliers request waivers so that they can participate in programs where credit is an important factor," the marketers said.

NYSEMC members for the purposes of the FERC filing include Interstate Gas Supply, Vectren Retail, and Agway Energy Services.

Briefly:

PUCT Approves Line-Item for MGRT Billing

The PUCT approved a recommendation from Commissioner Kenneth Anderson to amend its pending final rule on REP customer disclosures so that the Texas Miscellaneous Gross Receipts Tax (MGRT) is listed as a separate line item, and not bundled into the per-kWh price quoted by REPs on the Electricity Facts Label (Matters, 2/20/09).

Levco Still Brokering in Connecticut

Levco Tech continues to broker Connecticut customers, the aggregator told the DPUC in an amended interrogatory response. Previously, Levco Tech said it had suspended aggregation of customers due to the uncertainty from the DPUC's final decision regarding Dominion Retail's supplier license renewal, in which the Department directed changes to Dominion's relationship with Levco (Matters, 2/5/09). Though Levco continues to broker individual customers outside of an aggregation pool, it told the DPUC it prefers to be an aggregator and sought guidance from the Department on how its relationship with suppliers should be structured.

Secure Energy Solutions Gets Maine Broker License

The Maine PUC granted Secure Energy Solutions an aggregator-broker license for all sizes of non-residential customers in all utility territories. Secure Energy Solutions currently brokers electricity and natural gas in Massachusetts, Connecticut, New Hampshire and Rhode Island.

Iluminar Energy Receives REP Certificate

The PUCT granted Iluminar Energy a REP certificate (Matters, 1/14/09). CEO D.L. Prier also owns Prier Energy which completed its test flight a year ago.

Calif. PUC Approves SCE IGCC Funding, but Withholds Ratepayer Support, For Now

The California PUC directed Southern California Edison to fund Phase I of a study to evaluate the feasibility of an Integrated Gasification Combined Cycle plant to produce hydrogen for electric generation. The Commission approved Edison’s request to establish an account to record costs for the Hydrogen Energy California (HECA) study and to record up to $30 million in costs resulting from its participation in the study with Hydrogen Energy International, LLC. However, the PUC denied Edison’s request to approve rate recovery of certain costs recorded in the account at this time, although Edison may seek recovery of the costs stemming from its participation in Phase I and Phase II of the HECA study by filing an application with the PUC.

REP Certification ... from 1:

Staff's latest draft also memorialized Commissioners' discussions at the Feb. 10 open meeting, in which Commissioners agreed that monthly financial statements, or unaudited quarterly statements verified by an affidavit from a chief officer of the REP, would be acceptable in lieu of audited quarterly financials as required under the draft rule.

POLR ... from 1:

mandatory and large POLRs, now called Continuous Service Providers (CSPs).

As under the old draft, any REP meeting eligibility as a CSP could be called to provide service during a mass transition as a mandatory POLR — known in the new rule as a mandatory REP or MREP. However, the latest rules limit MREPs to serving residential and small commercial customers only, and would not be involved in transitions for medium or large commercial classes. MREPs' obligation to assume customers in a mass transition would also be capped at 1% of their current customer count in a particular TDU area (with AEP Central and Sharyland combined).

In each customer class in a service area, the PUCT would designate at least 10 MREPs but would cap the number of MREPs at 20, although there may be fewer than 10 MREPs if there are not 10 qualified to serve as MREPs. The eligible REPs that have the greatest market share based upon retail sales in megawatt-hours, by customer class and TDU area, would be designated as MREPs.

MREPs would be required to serve transitioned customers on a competitive month-to-month plan instead of pricing based on MCPE, which is intended to function as a buffer for customers in the mass transition, Staff said.

During a mass transition for residential and small commercial customers, customers would be first assigned to voluntary POLRs (called VREPs) on the basis of price, which would be a competitive, month-to-month offer from the REP. Customers remaining after the initial assignment to VREPs would then be assigned to MREPs.

Staff believes the waterfall approach, along with a competitive month-to-month offer, will afford VREPs and MREPs an opportunity to acquire new customers, as opposed to simply providing a temporary service to customers who may not pay the REP for the service. "By charging rates that are consistent with other products being offered in the market, REPs who receive customers in a mass transition should have a greater likelihood of retaining the customers and getting paid," Staff said.

In a memo on the latest draft, Staff states that, if the transition of customers is larger than what the VREPs and MREPs are designated to serve, then MREPs would not acquire customers, and remaining customers after the transfers to VREPs would be allocated to what are known as Large Service Providers (LSPs), or a POLR class analogous to today's non-volunteer POLRs (the five largest REPs in a service area/customer class by market share). This is essentially the process first proposed by Staff, although the cap of what MREPs would serve would be changed from the former 2% of total customers in a class to the 1% of individual MREP customer count.

However, the draft language submitted by Staff is less clear. According to the draft, "If the number of customers or load exceeds the amount the VREPs and MREPs have offered to serve, ERCOT shall assign remaining ESI IDs to LSPs in a non-discriminatory fashion ...," with no explicit provision that the assignment to MREPs would be skipped due to the size of the mass transition.

The issue of whether MREPs would be "bypassed" in very large transitions generated debate from REPs, who expressed concern about the expense of being required to stand ready to serve as an MREP under the new rules, only to see customers never assigned to MREPs because the transitions involve an amount of customers above the cap.

For the LSPs, which are the ultimate backstop service providers, Staff has proposed reintroducing an MCPE multiplier into the POLR price, but at 120% of MCPE rather than the 130% in the current rule. An

earlier draft had removed the multiplier. The draft language omits the 120% multiplier for the large non-residential customer class, though Staff's memo suggests the multiplier should be applicable to all classes. Large non-residential customers would be charged based on actual 15-minute MCPEs, while all others classes would be charged based on actual hourly MCPEs (an average of MCPEs over that specific hour).

The draft would also reinstate a price floor, equal to the simple average of the zonal MCPE prices over the 12-month period ending December 1 of the preceding year multiplied by the total kWh used over the customer's billing period.

The proposal would waive out-of-cycle meter read fees so customers could switch away from their POLR quickly, with such fees recouped by the TDUs through a regulatory asset.

The new rule would require ERCOT and TDUs to confidentially inform the Commission if they believe a REP is no longer capable of fulfilling its POLR obligation, which, due to the high number of MREPs which will be designated, will act as an early warning system to the Commission of potential REP failures, to a certain extent.

Under the new draft, ERCOT would send out a postcard to customers in mass transition, bearing the official seal of the Commission, with language approved by the Commission. In addition, ERCOT would also use other methods of notifying customers including automated phone calls and emails, if that information is available to ERCOT.

Due to the rule changes, new POLRs are to be selected by September 2009.