Energy Choice Matters

March 13, 2009

Pa. PUC Approves Accelerated Allegheny Procurement, Powelson Encourages Other EDCs to Follow Suit

The Pennsylvania PUC unanimously approved West Penn Power's (Allegheny) petition to accelerate the procurement of residential default service supplies to take advantage of current lower wholesale pricing, as Commissioner Robert Powelson encouraged other utilities to consider following Allegheny's example in accelerating their procurements.

As first reported by Matters (Matters, 2/10/09), Allegheny will move the procurement of six Service Type 10 (residential) tranches that were scheduled for various months of 2010 forward to April 2009 (five) and June 2009 (one).

While Powelson said the PUC is not in the business of timing commodity markets, he noted the decision will allow Allegheny to purchase cheap power while it is available, and added that hopefully other utilities will follow suit. The risk of buying the power earlier is "far outweighed" by the certainty of buying power at rates 40% lower than July 2008 prices -- rates, "which we may never see again," Powelson said.

A final order was not available yesterday, and Powelson described the PUC's action as allowing Allegheny to accelerate the procurement of five tranches forward into 2009. However, Allegheny's petition actually included six accelerated tranches, five in April, with also an additional accelerated procurement added to the previously scheduled June 2009 procurement. Specifically, Allegheny petitioned to buy residential power according to the following schedule:

Term	Apr '09	Jun '09	Oct '09	Jan '10	Jun '10	Oct '10	Jan '12	Apr '12	Total
17-Month	3	3	3	2	2	2			15
29-Month	2	2	2	1	1	1			9
12-Month							8	7	15
Spot									6

That compares to the originally approved schedule of:

Term	Jun '09	Oct '09	Jan '10	Jun '10	Oct '10	Jan '12	Apr '12	Total
17-Month	3	3	3	3	3			15
29-Month	1	2	2	2	2			9
12-Month						8	7	15
Spot								6

A news release from Allegheny said the accelerated purchases would occur in both April and

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PPL Default Service Settlement Removes Block Power Purchases from C&I Portfolio

Stakeholders in PPL's post-2010 default service case have agreed to a settlement which would, among other things, remove the use of blocks and long-term contracts for C&I customers, and would require PPL to file a non-recourse Purchase of Receivables plan for implementation by January 1, 2011.

The stipulation is supported by PUC Staff, PPL, the Office of Consumer Advocate, the Office

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Ameren Would Not Determine Customer-Supplier Billing Disputes Under POR

The Ameren Illinois utilities have revised their Purchase of Receivables proposal to remove the utilities from determining whether an amount to be paid to retail suppliers is disputed by the customer (Matters, 2/25/09).

As only reported in Matters, Ameren is not obligated to make payments for purchased receivables associated with charges billed to a customer for the competitive supplier's electric power and energy supply services that are disputed by the customer. Originally, Ameren would have defined charges as disputed if the customer contacted Ameren and claimed that such charges were not correct (docket 08-0619, et. al.)

However, after continued stakeholder workshops, Ameren has revised its position, and has removed language that would define charges as disputed if the customer contacts Ameren and claims the charges are incorrect. Ameren agrees that it is not the appropriate entity to decide whether a charge between a retail supplier and customer is disputed.

Instead, charges would be considered disputed if either the supplier or Illinois Commerce Commission Consumer Services Division determines the charge is disputed, and Ameren would suspend collection and remittance of disputed charges at the direction of either entity.

In other rebuttal testimony, Ameren opposed ICC Staff's proposal to keep the POR discount rate stable over two years, by including an up-front "balance factor" meant to cover projected increases in uncollectibles over time without requiring an adjustment. Ameren said to avoid future controversy and to adhere to cost causation principles, the Uncollectible Cost Component should be synchronized with future changes to the uncollectible component included in the Ameren basic generation service rates via Rider PER (Purchased Electricity Recovery), which will help create a more level playing field for competitive suppliers. Ameren further noted annual changes to POR discount rates are common in other jurisdictions, and thus should not act as a barrier to entry.

Ameren maintained its position that charges for RECs and other non-energy services should not be included in the purchased receivables, and that competitive suppliers should be required to place all customers in a customer class grouping on POR in order to participate in the program, to avoid the cherry-picking of good credit customers for dual billing.

N.Y. PSC Approves New Pricing Mechanism for NFG Capacity Releases

The New York PSC approved National Fuel Gas Distribution's tariff revisions to charge replacement shipper ESCOs a price for released capacity equal to NFG's weighted average cost of capacity (WACOC). Currently, NFG releases pipeline capacity to ESCOs at a cost nearly equal to its WACOC, but the changes will enable ESCOs take release of capacity at the same WACOC as NFG's sales customers.

The modifications stem from FERC's recent Order 712, which removed certain tying and bidding requirements related to capacity releases associated with state retail choice programs (Matters, 11/21/08). Prior to the changes, NFG had been unable to directly release capacity at its WACOC due to FERC's maximum rate and bidding requirements. Under the bidding requirements, the release had to be publicly posted, with the opportunity for the capacity to be bid away from the ESCO.

To avoid this outcome in the past, NFG instead released capacity to ESCOs in slices at maximum rates that, in combination, roughly equaled its WACOC. NFG said the new method will be simpler administratively.

The PSC's order approving the petition noted that, "Unfortunately, the current interpretation of Order 712 results in some circumstances when the capacity released to the ESCOs would not be exempt from the bidding requirement."

Specifically, the PSC noted that when the ESCO is one step removed from the capacity release (such as when using an asset manager), the transaction is no longer exempt from the bidding process. As a result, NFG has also included a provision in its tariff revisions that address the situation where ESCOs will need to match competing bids, as necessary, to be awarded capacity by the pipelines.

The PSC noted NFG and other LDCs have filed requests for clarification at FERC regarding the extension of the capacity release exemptions to the agents of ESCOs (Matters, 3/10/09).

Exelon Says Divestiture of All Current ERCOT Generation Keeps NRG Merger Under 20% Cap

Exelon plans to divest all of its current generation in ERCOT should its hostile takeover of NRG Energy be consummated, Exelon said in updated testimony at the PUCT (36555).

Accordingly, the transaction would not alter NRG's current market share, and the combined company would not hit the 20% market share cap, Exelon said.

NRG, Exelon said, currently owns and controls 13,094 MW of installed generation capacity in ERCOT, including 2,187 MW associated with mothballed plants. Sources for the NRG total were NRG's 10-K and NRG's website, Exelon said.

Exelon told the PUCT it currently owns and controls 2,202 MW of installed generation capacity in ERCOT, excluding 190 MW from two Exelon generating plants that were retired on March 1, 2009.

Exelon said the combined company would own and control approximately 18.37% of the installed generation capacity located in, or capable of delivering electricity to, ERCOT. The calculation was based on 2009 summer ratings, plus planned generation expected to be operational in 2010 as well as import capability into ERCOT.

While under the 20% cap, Exelon still intends to divest all of its currently owned plants in ERCOT to pass Department of Justice horizontal market power screens. The sales would include Exelon's Mountain Creek units, Handley units, and LaPorte units.

With the divestitures, the post-merger market share of Exelon would be the same as the current NRG market share, which Exelon pegged at 15.72%.

Since the divestitures would take some time to complete, Exelon proposed an interim mitigation measure to the Department of Justice. Under the interim program, Exelon would commit that, for all of the available fossil energy it will control in ERCOT (i.e., energy that is online and not already committed to a buyer's balanced schedule or to previously cleared ancillary services markets), it would offer the energy to the balancing energy markets at the Out of Merit Energy Up mitigated prices computed by ERCOT. That approach would eliminate any theoretical ability to physically withhold capacity or energy needed for congestion management, Exelon argued.

Md. PSC Approves 423 MW of Demand Response Contracts

Judging that the small costs of reliability insurance outweigh the risks of over-procurement, the Maryland PSC approved Staff's recommendation to procure about 400 MW of demand response via Gap RFPs issued by the state's investor-owned utilities (Case 9149).

Numerous stakeholders, including the Office of People's Counsel, have said that with the recent slowdown in load growth due to the recession, the Commission should refrain from committing to the resources at this time (Matters, 2/20/09).

However, the Commission said that, "the relatively small cost of gap insurance significantly outweighs the risks posed by various supply uncertainties in 2011 and beyond."

"As we have stated repeatedly, this Commission will not rely on chance and good fortune to ensure that the lights will stay on amid a myriad of uncertainties," the PSC added, noting there is currently no regional regulatory or other entity that can address potential regional reliability shortfalls as a result of a delay in a transmission line.

However, PJM may receive the ability to conduct supplemental backstop RPM procurements under pending changes at FERC.

"This Order represents a critical first step in ensuring reliability for the State of Maryland, and demonstrates that the Commission will not sit back and hope that markets or other parties address the problem," the Commission stated.

Load forecasts change constantly, the PSC noted, and inaction now could leave Maryland ratepayers vulnerable to reliability shortfalls if the economy recovers over the next year or two. The PSC said prices for load response could be higher if it waited to procure resources in later years (if a need still remained), as some parties had suggested.

The Commission approved Staff's Option 2 level of procurement, which, as filed by Staff, covered 423 MW for the critical summers of 2011- 2013 at 12-17 cents per month for the average residential customer in the BGE, Pepco and Allegheny service territories, and 3-7 cents per month for the average residential customer in the Delmarva service territory. Utilities shall recover the cost of the Option 2 bids on a per kWh basis across all customer classes, the PSC said.

Maine PUC Rejects Integrys Plea on Disclosure of Confidential Data

The Maine PUC rejected a motion from Integrys Energy Services for the Commission to reconsider its release of Integrys' confidential bid data in Maine Public Service's Standard Offer solicitation (2008-400,)

Although a hearing examiner had premised the release on Integrys Energy Services' complaint at FERC regarding New Brunswick Power Generation's market-based rate authority (New Brunswick won the smaller load classes at MPS), Integrys countered that the RFP pricing has no bearing on the question of New Brunswick's MBR authority, and noted the complaint did not address the procurement itself. Furthermore, the Integrys marketer argued that the release has damaged bidder confidence in the Standard Offer procurement process (Matters, 2/23/09).

The PUC, however, said that, "we believe that the FERC complaint by Integrys is properly considered a challenge to the Commission's bid process."

"With respect to the Integrys bid price, this information is important so that FERC understands the economic consequences to northern Maine customer[s] if it decides to prohibit New Brunswick Power from providing standard offer service. This is of equal interest to the northern Maine public and, thus, warrants disclosure," the PUC added.

Briefly:

Pa. PUC Approves PECO Prepayment Plan

The Pennsylvania PUC approved PECO's voluntary prepayment plan to allow customers to mitigate potential rate increases when rate caps expire January 1, 2011 by making advanced payments. The plan is competitively neutral.

Harris Warns of Hitting Ratepayers with More 18-a Charges

During an update on consumer assistance and outreach at yesterday's New York PSC regular session, Commissioner Maureen Harris worried about imposing a host of surcharges on customers that diminish the value of energy assistance provided to consumers, and cautioned policymakers against hitting ratepayers with additional surcharges, later citing an expanded Section 18-a assessment as an example. Lawmakers are considering imposing the tax on ESCO sales, while the PSC, which also has jurisdiction to make such a change, is studying the issue as well (Matters, 3/5/09).

MC Squared Receives Illinois License

The Illinois Commerce Commission granted MC Squared Energy Services an alternative retail electric supplier license to serve customers above 15,000 kWh in the Commonwealth Edison territory. MC Squared Energy Services resulted from a joint venture of Lower Electric, private investment firm Rock Creek Energy Partners, and financial marketer Wolverine Trading. MC Squared has been managing Lower Electric's 250-account book since December, and intends transfer the Lower Electric customers to the MC Squared certificate.

First Choice Power to Change Financial Qualifications

First Choice Power Special Purpose applied at the PUCT for an amendment to its REP certificate to reflect a change in its financial qualifications from assets in excess of liabilities of at least $50 million to unused cash resources of at least $100,000.

SCE Rate Decision Disregards POR

A final California PUC decision on Southern California Edison's rate case maintains a draft finding that a proposed Purchase of Receivables program suggested by marketers was outside the scope of the case, and not adopted (Matters, 11/19/09).

PG&E Receives Approval for Updated Smart Meters

Consistent with an earlier draft (Matters, 12/24/08), the California PUC authorized Pacific Gas and Electric to proceed with its proposed Advanced Metering Infrastructure (AMI) upgrade at a cost of $467 million (A. 07-12-009). The principal components of the upgrade include an integrated load-limiting connect/disconnect switch, a home area network (HAN) gateway device, and an advanced solid-state meter. With the upgrade, PG&E's previously authorized advanced metering infrastructure (which used electromechanical meters, some of which have already been installed) will be comparable to programs authorized at San Diego Gas & Electric and Southern California Edison. The decision also accepts a two-tier peak time rebate for PG&E, rather than a single tier as proposed by PG&E, though the design of the incentive is deferred to PG&E's November 2009 rate design window filing. Stranded costs related to the already installed and now outdated electromechanical meters will be considered as original AMI program costs, and the decision does not determine whether PG&E should or should not have deployed the electromechanical meters, or whether PG&E came prematurely to the Commission with its original AMI application.

TXU Product Certified by Green-e

The Center for Resource Solutions said yesterday that TXU Energy's Texas wind product has been Green-e Energy certified.

Allegheny *... from 1:*

June 2009, though it did not list a specific number of tranches.

Vice Chairman Tyrone Christy agreed that it appears to be a good time to begin laddered purchases of power, but said he still opposes the full requirements approach used by Allegheny and the other default service providers, since full requirements service, "adds an unnecessary risk premium to default service and limits the number of potential power suppliers."

The PUC's decision does not alter the duration or type of contracts procured, nor does it affect C&I default service.

PPL *... from 1:*

of Small Business Advocate, industrials, the Retail Energy Supply Association, and several other competitive suppliers. The plan would establish procurement of default service supplies from the period January 1, 2011 through May 31, 2013, one year shorter than PPL's original plan. The mechanism represents the second default service plan for PPL, which already has been conducting ongoing procurements for its 2010 "bridge" default serve plan for when rate caps expire January 1, 2010.

Under the settlement, residential customers would be served on a mix of full requirements contracts, and blocks of power. The portfolio would include 200 MW from one-year blocks, 100 MW from five-year blocks, and 50 MW from a 10-year unit entitlement. All blocks would be for "around the clock" power.

Remaining residential supplies would be bought on load-following, full requirements contracts. Laddered contracts would make up 90% of the full requirements supplies, with

10% purchased in the spot market. For the forward purchases, 45% of contracts would be for one year, and 45% would be for two years. Procurements would be conducted quarterly, approximately three months before delivery, with each procurement representing about 17% of PPL's full requirements supply needs. Suppliers would be limited to an 85% load cap in each individual procurement (except for the five- and 10-year blocks), and would be subject to an aggregate residential class load cap of 70%.

In the small commercial and industrial class (under 500 kW), the settlement removes PPL's petition to use blocks and long-term contracts to supplement full requirements contracts. Settling parties agreed that with the expected higher level of migration in the small C&I class, blocks of power were not appropriate, since they could be out-of-market and result in higher, possibly stranded, costs.

Some 90% of small C&I supplies would be bought on load-following, full requirements contracts, with half of the contracts for one-year, and half for two years. The remaining 10% of supplies would be procured from the spot market. Procurements would be held quarterly, about three months before delivery, for about 17% of supply needs in each solicitation. Wholesale suppliers would be limited to an 85% load cap in each procurement, and a 65% aggregate load cap for the entire class.

Large commercial and industrial customers (above 500 kW) would receive hourly pricing for default service. However, a collaborative would be established to investigate creating an alternative monthly or quarterly fixed-price product for large C&Is.

All procurements would be through competitive RFPs. Wholesale suppliers would be responsible for compliance with the alternative energy portfolio standards, though a separate solicitation for alternative energy credits would be held in connection with the residential power blocks.

The Generation Supply Charge (GSC) for residential and small C&Is would be reconciled quarterly, and would be based on kWh usage. The GSC for large C&Is would include both a usage (kWh) and capacity (kW) charge.

PPL would file, either as part of a rate case or separate petition, a revised POR plan to be implemented by January 1, 2011, pending PUC approval. The POR program would be non-recourse, assuming PPL can disconnect customers for competitive arrears, and would eliminate the current reversion to dual billing for past due amounts. PPL would also file to unbundle its uncollectible components. An issue still to be contested when the program is filed is consumer advocates' position that customers should not be disconnected for non-payment of competitive supply charges in excess of regulated EDC charges.

A collaborative on a direct mail customer referral program, and on residential aggregation programs, would also be established.

Two issues remain to be litigated in the case: provisions for defaults under the Supply Master Agreement, and default service for Amtrak.