Energy Choice Matters

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Duquesne Settlement Would Use RFP to Set Medium C&I Rates Through December 2010

Duquesne Light would implement a competitive RFP to procure load following contracts to serve medium C&I customers from July 1, 2009 through December 2010 under a settlement which would be approved by a recommended decision by a Pennsylvania PUC ALJ. Rates would remain at 2008 levels for the first six months of 2009 under the stipulation, which emerged from Duquesne's application to revise the Market Index adjustment currently used to set medium C&I rates, applicable to customers on Rate Schedules GS/GM and GMH with demands between 25 kW and 300 kW.

Under Duquesne's POLR IV plan, rates for medium C&I customers were to be set by a Market Index adjustment at six-month intervals beginning January 1, 2009. While base 2008 generation rates reflected energy and capacity, the Market Index was based solely on changes in energy prices at the PJM Northern Illinois Hub (NIHUB). While, at the time of its original filing, Duquesne said energy prices have remained relatively the same, Duquesne noted that capacity prices resulting from the Reliability Pricing Model (RPM) have increased substantially.

Duquesne argued that by not reflecting such capacity costs in the Market Index, the index failed to reflect the intent of parties in the POLR IV proceeding that default service rates for medium C&I customers are to change to reflect market prices. Furthermore, by not reflecting changes in capacity pricing, the indexed-based default service rates could damage the competitive market and prompt migration to default service from competitive supply. Duquesne said about 25% of customers over 25 kW are shopping.

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Md. PSC Orders LDCs to Hedge 40% of Storage Injection Volumes

Contrary to the recommendations of Staff and most parties, the Maryland PSC ordered five LDCs to hedge 40% of their summer storage injection volumes at today's prices, in a move the PSC said would protect customers against the risk that gas prices may not continue to fall as expected (Case 9174). The order applies to Baltimore Gas and Electric, Washington Gas Light, Columbia Gas of Maryland, Chesapeake Utilities, and Easton Utilities Commission.

The case was first opened in January as Staff asked that utilities show why hedging injection volumes at current prices would not be in the customers' interest. LDCs generally balked at prescriptive hedging dicta, with BGE saying increased hedging could raise prices due to potential margin postings and other credit-related costs (Matters, 2/19/09). Hedging would also carry a premium, BGE said. As prices continued to decline through the first quarter of 2009, Staff was convinced that all LDC hedging should cease pending an investigation (Matters, 2/24/09).

At a hearing, all of the parties -- including the Office of People's Counsel, which, as described by the PSC, "argues for price stability, hedging and long-term contracts in every other setting" -- recommended that the Commission allow the LDCs to follow their typical storage procurement

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ERCOT Board Approves Non-Spin MCPE Adjustment, Rejects Administrative Scarcity Pricing

The ERCOT Board yesterday approved Protocol Revision Request (PRR) 776, Automatic MCPE Adjustment During Intervals of Non-Spinning Reserve Service Deployment, and rejected PRR 791, Shortage Pricing Mechanism.

PRR 776 is intended to correct the problem of after-the-fact price adjustments under Non-Spinning Reserve Service Deployment, which prevents price-responsive load from reacting to prices in real-time. The PRR essentially sets a price floor for Non-Spin to correct price suppression, using a multiplier times the price of gas (Fuel Index Price) plus $120 (Matters, 2/18/09).

Generators and wholesale suppliers sought to pass an administrative shortage pricing mechanism (PRR 791) in tandem with PRR 776. PRR 791 would have administratively set prices at $1,500/MWh under certain conditions. Supporters argued that scarcity pricing is not regularly occurring as needed in the energy-only market due to regulatory uncertainty and negative media attention. While PUCT rules allow "small fish to swim free" and bid at the offer cap, advocates of PRR 791 said that the Commission rules are not completely clear. While PUCT rules deem generators with less than 5% of installed ERCOT capacity as not possessing market power (allowing these generators to bid freely at the cap), PRR 791 supporters said it isn't explicitly clear that generators which do not have ERCOT-wide market power, but may have zonal market power, are covered by the small fish swim free exemption.

PRR 791 supporters also downplayed fears from load that prices would increase under administrative scarcity pricing. In fact, supporters said, while prices may rise because of the lack of scarcity pricing currently seen, prices under the administrative mechanism will tend to be lower than if small fish exercised their right to bid at the cap.

Load representatives, however, noted PRR 791 would hit REPs, as the vast majority of customers do not receive real-time prices. Since customers without IDR meters are on flat pricing, scarcity pricing won't produce price signals and would only represent a transfer of wealth, load representatives said. The risk to REPs of such transfers would result in higher customer rates.

PRR 791 advocates countered that REPs could avoid such exposure by not leaning on the balancing market and using bilateral supply contracts, which will also ameliorate ERCOT credit and reliability issues.

The majority of the Board was not convinced, however, and PRR 791 was rejected. PUCT Chairman Barry Smitherman encouraged generators to come to the Commission with their concerns about the current scarcity pricing mechanism.

Broker LBE Says Applicability of ABC Law Unclear Absent ICC Rule

Responding to complaints which allege it has violated the Illinois ABC law, broker LBE, LTD said that until the Illinois Commerce Commission adopts rules defining what entities are subject to the law, it is not known whether LBE is an agent, broker or consultant subject to the law's requirements, which, among other things, compel written disclosure of anticipated remuneration from the brokering of electricity.

End users Arlington Lanes and RLD Corporation (d/b/a Mont Clare Lanes and Banquets) filed the complaints against LBE at the ICC, alleging that LBE's failure to disclose its remuneration in a solicitation to enroll the complainants with Hudson Energy Services violated the ABC law's code of conduct (Matters, 2/18/09).

LBE argued that under the rules proffered by an ALJ in a proposed order, LBE would not be subject to the mandates of the ABC law. LBE said the proposed order defines an ABC as having, “authority from one or more retail electric customers to purchase or enter into a contract to purchase the services of a [retail supplier] on said customer’s behalf with the intent to procure on behalf of or sell retail electric service to an electric customer in the state, including the evaluation of pricing, terms and conditions and the comparison of offers extended by [retail suppliers].” LBE reported that it did not have authority to purchase or enter into a contract for either complainant, and thus would not be an ABC under the proposed decision.

Furthermore, LBE argued that it was acting as an agent exclusively on behalf of Hudson Energy Services. Such exclusive agents are not required to disclose remuneration under the ABC law if their exclusive relationship is disclosed in writing. LBE contended it disclosed its exclusive relationship, because it indicated to complainants that Hudson was the "energy partner" of LBE, and because LBE only listed a single offer from Hudson with no other suppliers in the materials provided to complainants.

LBE said that it had executed the complainants' previous electricity contracts which were expiring in December 2008 as an agent of BlueStar Energy Services.

FERC Approves Entergy WPP, Plans to Study ICT

FERC said it intends to commence a process to assess the continued benefits of Entergy's Independent Coordinator of Transmission (ICT) arrangement, in an order conditionally approving Entergy's Weekly Procurement Process (WPP).

The WPP is intended to provide merchant generators a greater opportunity to be integrated into the procurement processes that Entergy and other network customers use to serve their native load customers, by allowing displacement of existing network resources in favor of cheaper alternatives (ER09-555).

The WPP, along with a participant funding transmission pricing proposal, were part of a package FERC approved in its ICT order in 2006. FERC said its approval of the ICT arrangement was predicated on the expected benefits that it would provide to both wholesale and retail customers, but noted several parties to the WPP proceeding have raised valid concerns regarding whether the ICT arrangement has produced the attendant benefits relied upon by the Commission when originally approving the proposal. In response, FERC will commence a process involving state regulators to assess the continued benefits of the ICT arrangement over the upcoming months, which may include a conference with state regulators and other stakeholders.

FERC had approved the ICT arrangement as a four-year experiment which will automatically terminate in November 2010 unless Entergy receives approval to continue it. FERC ordered Entergy to explain its plans for a replacement arrangement or its intent to continue the ICT arrangement in its current or modified form in a compliance filing due by November 17, 2009, which is one year prior to the expiration of the initial ICT term.

The WPP, a major factor in FERC's approval of the ICT, has been repeatedly delayed, denying customers its benefits for 22 months. Now, there will only be 20 months left of the current ICT term in which the WPP will be in place.

Furthermore, FERC noted stakeholders believe the latest WPP design, conditionally approved by FERC in its order, carries diminished benefits, since it will eliminate off-peak bids and point-to-point service from the model.

Although FERC is concerned that the money spent on developing the WPP may outweigh any benefits it may produce, FERC remains convinced that the WPP has the potential to provide a better optimization of the transmission system by allowing the evaluation of multiple resource alternatives for the same customer without the need for multiple transmission requests, and by taking generator economics into account when qualifying new network resources.

"However, the Commission has reservations that the more limited WPP as proposed herein, although ready to be implemented, may not provide the benefits to customers that the Commission relied upon in approving the ICT arrangement, and does not go far enough to resolve the significant transmission access issues that the ICT and

WPP were intended to resolve and that continue on Entergy's system," FERC said.

Thus, FERC ordered Entergy to submit within 45 days more information with regard to the specific problems it encountered with the development of the WPP that prevented it from accommodating off-peak bids and point-to-point transmission in the model. Specifically, this information is to include an assessment of: (1) what would be required to solve the problems to incorporate these two features; (2) how long it would take to solve the software problems; and (3) what would be the cost to develop these two features.

Briefly:

MISO Reports Four Defaults

The Midwest ISO reported yesterday that four financial marketers have been found in default for failure to cure Total Potential Exposure violations under MISO's credit policy. Though MISO's default notices did not indicate the cause of the violations, resettlement of Revenue Sufficiency Guarantee charges on virtual suppliers is a likely culprit. Marketers in default include Apex Energy Trading, Energy Endeavors, Flat Earth Energy, and High Sierra Power Marketing. All but Energy Endeavors had already voluntarily terminated their Market Participant status prior to default.

GTC Global Telecom Affiliate Seeks REP Certificate

GTC Energy, an affiliate of competitive local exchange carrier GTC Global Telecom, filed for a REP certificate at the PUCT. GTC Energy would meet PUCT financial qualifications via unused cash resources of $100,000, and will contract with Eagle Energy for QSE qualification and ongoing QSE operations. GTC Energy will contract with Energy Services Group for EDI qualification, ongoing transaction processing, and billing services.

Always Electric Re-files for REP Certificate

Always Electric has re-applied for a REP certificate at the PUCT. The start-up had applied for a certificate last spring, but the application was dismissed when Always Electric did not timely file requisite financial information (Matters, 5/13/08). Always Electric Organizing Member Stephanie Grider works in business development for backoffice vendor ePsolutions, which is also listed as a member of the start-up. Always Electric would meet PUCT financial requirements via unused cash resources of $100,000.

Scana Energy Remains AGL Regulated Provider

Scana Energy won a competitive bid to continue serving as the regulated provider and POLR in the AGL market. Scana acts as a regulated provider to low-income and elderly customers, and as a POLR to customers with poor credit or payment histories who have been refused service by other marketers. During the new term to run September 1, 2009 through August 31, 2011, seniors will see their customer service charge fall from $2.95 per month to $1.95. For credit-challenged customers who have been denied service elsewhere, the customer service charge will be reduced to $9.95 from $10.95. Those who pay promptly for six months will be rewarded with a customer service charge of $6.95, and will become eligible for Scana Energy's competitive market rates.

Maine PUC Clarifies January ISO-NE Order Not Final Order in Docket

The Maine PUC granted Bangor Hydro-Electric's request for clarification and confirmed that a January order directing BHE and Central Maine Power to renegotiate ISO New England membership terms was not a final order in the case, and that the docket remains open (2008-156, Matters, 2/4/09). BHE asked for the clarification so it could determine whether it needed to preserve any right of appeal at this time. The Commission stopped short of granting BHE's request that the PUC confirm the failure of any party to appeal the January order at this time does not preclude future appeals of future orders on the same issues, as the Commission said it would be inappropriate and likely beyond its jurisdiction to guarantee BHE's appeal rights in such a manner, as such rights are dictated by legal precedent.

Md. PSC Issues Errata to Gap RFP Order

The Maryland PSC issued an errata to its order directing utilities to procure Staff's proposed level of 423 MW of demand response resources in response to the gap RFPs, clarifying that for Pepco and Delmarva, the utilities may accept a particular bid for the duration of four years as bid into the RFP, rather than the three-year term recommended by Staff (Matters, 3/13/09).

ERCOT Developing Mitigation Plan Related to Singleton Substation Cut-In

ERCOT said it is developing a mitigation plan to address the possibility that two new North to Houston Closely Related Elements (CREs) may fail to address potential congestion if the there is a double circuit outage on the two remaining 345 kV lines available during the 21-day Singleton substation cut-in in April. ERCOT recently designated the Peters-Flewellen 138kV and Hockley-Tomball 138kV lines as North to Houston CREs to help manage congestion during the cut-in (Matters, 3/12/09).

Cleary to be ERCOT Chief Technology Officer

ERCOT is to formally announce Mike Cleary, formerly with Utilicast, as its new Chief Technology Officer, charged with planning, directing and coordinating implementation of the nodal market. Through Utilicast, Cleary has been reviewing the nodal market, and previously held positions at PJM, Accenture, and Ireland's Electricity Supply Board.

Duquesne ... from 1:

In December, Duquesne filed to include capacity costs in the index, but the petition was opposed by the Office of Small Business Advocate (OSBA).

Under the settlement between Duquesne and OSBA, the Market Index would be eliminated starting July 1, 2009, with a competitive RFP used to solicit supplies and set prices from July 1, 2009 through December 31, 2010. Parties Dominion Retail and FirstEnergy Solutions are not signatories to the stipulation, but Duquesne said they do not oppose it.

The RFP would procure full requirements, load following contracts including energy, capacity, transmission and distribution losses, grid management costs, congestion and congestion management costs, Alternative Energy Credits, and other services or products required to provide default service. The load following contracts would not include transmission service within Duquesne Light's zone or ancillary services. Duquesne Light would continue to provide transmission service and ancillary services pursuant to the terms of the POLR IV settlement with such costs recovered through its Transmission Service Charge (TSC).

Procurements would be staggered according to the following schedule with a mix of one-year and five- or six-month contracts:

Procurement Date	Delivery Period	% of Requirements
May '09	7/1/09 – 12/31/09	100%
May '09	1/1/10 – 12/31/10	50%
Nov. '09	1/1/10 – 5/31/10	50%
April '10	6/1/10 – 12/31/10	50%

The May 2009 procurements may be pushed to June 2009 depending on the date of a PUC order.

Duquesne Light would adjust rates semi-annually for medium C&I customers, on July 1, 2009, January 1, 2010 and July 1, 2010, to reflect the most recent projections of default service prices (grossed up for taxes and losses) for the applicable six-month period and reasonable administrative costs associated with the RFP process.

Rates for the first six months of 2009 would be the same as rates in effect as of December 31, 2008, (essentially applying a Market Index adjustment of 1.0). The reduction in the demand charge scheduled for January 1, 2009 would occur on July 1, 2009, with the demand charge fully eliminated as of January 1, 2010.

Duquesne Light's affiliate, Duquesne Power, would be permitted to bid in the RFPs to provide default supplies to medium C&I customers.

Duquesne said that the RFP process will allow default service rates to reflect market prices, and will remove the uncertainties of the market multiplier mechanism on a prospective basis. The settlement also mitigates the migration of customers to POLR service from competitive supply due to "improper" pricing that would not have captured changes in capacity costs, Duquesne said.

Duquesne Light agreed to propose a similar competitive procurement methodology using full requirements, load following contracts for medium C&I customers in its next default service proceeding (POLR V), absent a significant change in Commission regulations or statutory provisions. However, that provision does not prevent Duquesne Light from proposing to modify the contract lengths to be proposed for medium C&I customers, or to include spot market purchases in the mix of supply to be proposed for medium C&Is in POLR V.

Md. LDCs ***... from 1:***

practices, under which they gradually purchase gas for injection and storage between April and October.

However, the Commission said that, "if the Gas Utilities fail to take advantage of current natural gas prices, they may lose an opportunity to lock in lower costs for ratepayers for the 2009-10 winter heating season."

With that justification, BGE, WGL, Columbia, Chesapeake and Easton were ordered to take the actions (other than options) necessary to assure that 40% of their summer injection volumes, for delivery between April 2009 and October 2009, will reflect a Henry Hub price of $4.32 or less per MMBtu plus basis cost to deliver gas to LDCs' delivery points.

"[T]he Commission finds that ratepayers will benefit, and will be protected against price spikes due to heat, hurricanes, cold weather, and many other uncertainties affecting gas and power prices, by a strategy of purchasing a portion of the Company's summer injection needs at the current low market prices," the order states.

In its decision, the Commission cited its authority to ensure that Maryland's utilities operate in the interest of the public and provide service in an "adequate, economical and efficient" manner per Md. Code Ann., Public Utility Companies Art. § 2-113(a), taking into account, among other things, "the economy of the State," per PUC § 2-113(a)(2).