

# Energy Choice

## Matters

*March 27, 2009*

### **Pa. PUC Opens Rulemaking on Retail Gas Price to Compare, POR, Capacity Release**

The Pennsylvania PUC voted to issue a rulemaking meant to create a more level playing field in the retail natural gas market, including proposals to make the Price to Compare more market reflective, and to institute rules for purchase of receivables.

An order on the rulemaking was unavailable, but according to a statement by Vice Chairman Tyrone Christy, the proposal would require LDCs to adjust their Price to Compare on a monthly basis, instead of quarterly.

"I am inclined to disagree with the proposed requirement to implement monthly [LDC] pricing as I question whether it is sound public policy to make SOLR service volatile or 'ugly' simply to encourage fixed price offers from competitive natural gas suppliers. I believe that the existing quarterly adjustment process represents a fair compromise between annual and monthly adjustments and should be retained. This allows natural gas consumers to have some period of stability in their gas costs," Christy said in a written statement.

Furthermore, Christy expressed an "overriding concern" about the Price to Compare concept, as, "[s]imply providing the currently effective Price to Compare does not allow consumers to make informed decisions when considering offers from competitive suppliers."

Christy suggested that the PUC could develop a monthly projection of natural gas prices for the ensuing twelve months based upon the best available market information, in order to allow customers to compare LDC market pricing with competitive offers, especially offers requiring a long-term commitment. "In my opinion, the development of gas price forecasts will help reduce

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### **Calif. Issues New Draft on Tradable RECs to Cap IOUs' Initial Use**

The California PUC withdrew a proposed decision which would have authorized the use of tradable RECs for RPS compliance from consideration at its meeting yesterday, in order to allow parties to comment on a new draft circulated yesterday.

Among the changes in the new proposed decision is the inclusion of a temporary cap on utilities' use of tradable RECs for RPS compliance. The new draft finds that ratepayers should not have to bear the risks associated with the fact that tradable REC contracts, unlike bundled RPS contracts, will not provide long-term fixed price energy for utility customers.

For large California IOUs, no more than 5% of the megawatt-hours used to meet their annual procurement target (APT) in any year could be in the form of tradable RECs, beginning with the 2009 compliance year and ending with the 2011 compliance year. The percentage limit is an alternative to proposals from consumer and environmental groups for a carve-out or similar minimum requirement for use of long-term bundled PPAs for RPS compliance (Matters, 10/30/08).

The tradable REC limit would not apply to competitive Electric Service Providers or

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## **Valley Energy Seeks Waiver of Pa. POR/Unbundling Requirement**

Pennsylvania LDC Valley Energy requested a waiver from the requirements to file a voluntary Purchase of Receivables program by March 31, 2009, or, if not filing a plan, to submit fully allocated cost of service data in its next rate case to permit unbundling of rates.

Valley serves 4,400 residential and 650 commercial and industrial customers. Only six small commercial customers (with 23 accounts) are currently on competitive supply, with no residential customers shopping.

Due to the cost of implementing consolidated billing necessary for POR, Valley said it was unduly burdensome for a small LDC to comply with the requirement. The alternative of filing a fully allocated cost of service study is also unreasonable, Valley said, because only a small number of Valley's customers will likely pursue competitive supply.

Valley reported implementation of consolidated billing would cost \$660,000, not counting internal resources diverted to the project. Echoing an October statement by PUC Vice Chairman Tyrone Christy that residential shopping is not expected to be significant, Valley said its small customer base would pay over \$116 per account to implement a POR program that would not be used by many customers.

As to the cost of service study, Valley said smaller LDCs with rate cases requesting an increase of less than \$1 million in annual gross revenue typically do not file fully allocated cost of service studies as part of the proceeding, and said that imposing such a requirement on Valley would raise the cost of its next rate case from \$50,000 to \$100,000.

## **RESA Questions PPL Optional Renewable Product**

PPL's application to offer residential and small commercial customers the opportunity to purchase alternative energy credits raises concern because PPL has said the program

should not be considered default service, the Retail Energy Supply Association said in a prehearing memo.

PPL has applied to offer customers the option of purchasing blocks of 100 kWh of alternative energy credits on a monthly basis, at \$2.50 per 100 kWh block.

In its application, PPL has asserted its optional green product does not need to be consistent with the Pennsylvania PUC's default service regulations, as it is not default service. However, RESA noted that the Electricity Choice Act provides no basis for an electric distribution company to provide generation services other than default service.

Among other things, the PUC's default service rules call for a "single rate option." In similar cases involving other utility renewable programs, RESA has questioned whether a voluntary green product is consistent with such a requirement.

Although the PUC has approved similar green tariff options at other utilities, RESA noted the PUC, in those decisions, did not foreclose challenges to the permissibility of such offerings with respect to the default service regulations. In some cases, waivers were sought and granted, so the PUC did not adjudicate the default service regulations' applicability to the green options.

PPL has entered into a contract with Community Energy to obtain alternative energy credits and market the program. Under its proposal, the program would be limited to four years, designed to promote early development of the renewable industry, and would be capped at 3.3 million blocks of credits over the four-year term.

## **Cargill Seeks Bypassable Rate Stabilization Rider at Dayton**

Agribusiness Cargill Incorporated sought to extend to all shopping customers a provision in a stipulation regarding Dayton Power and Light's electric security plan which makes the Rate Stabilization Surcharge (RSS) bypassable for governmental aggregation customers agreeing to take market-priced service if returning to the utility for supply (Matters, 2/25/09). Cargill is the only party

opposing the settlement.

The stipulation, which at its base extends DP&L's existing rate stabilization plan for two years until the end of 2012, maintains the currently nonbypassable Rate Stabilization Surcharge. However, due to specific requirements in SB 221, the settlement allows governmental aggregators to avoid the Rate Stabilization Surcharge starting in 2011, if such customers agree to take market-based rates if they subsequently return to bundled service.

According to Cargill, the Rate Stabilization Surcharge compensates DP&L for providing stabilized rates and acting as the POLR. Cargill said DP&L will receive over \$150 million in revenues by collecting the rate stabilization rider during 2011 and 2012.

Cargill argued that all customers on competitive supply who agree to return to bundled service at market pricing should be allowed to bypass the Rate Stabilization Surcharge, noting PUCO approved such a provision in AEP Ohio's electric security plan.

However, DP&L said that the stipulation also provides what are projected to be below-market rates, and that such rates were offered in exchange for collection of the Rate Stabilization Surcharge. Thus, the AEP settlement should not be used for comparison.

While PUCO Staff supported the stipulation's Rate Stabilization Surcharge provision by arguing it merely maintains the status quo and charges a rate previously approved as reasonable by PUCO, Cargill countered that under the 2005 Rate Stabilization Plan, the unavoidable Rate Stabilization Surcharge was only permitted through 2010. Thus, its extension should not be seen as maintaining the status quo.

### **CAISO Must Develop Criteria Regarding Access to Non-Public Operating Procedures**

FERC agreed that the California ISO may limit access to certain operating procedures, but directed the ISO to set forth the specific criteria it will use to determine a market participant's eligibility to access such

information, the Commission ruled in an order on a Market Redesign and Technology Upgrade compliance filing (ER08-367-001).

CAISO may limit access to certain operating procedures based on system security, market sensitivity, or proprietary concerns, and may make non-public operating procedures available only to those entities that are operationally affected by the procedures, FERC said.

The CAISO proposed to deny access to such non-public operating procedures if the market participant is only "economically" or "financially" affected. The Commission agreed with such restrictions because under a locational marginal price-based market, virtually any market participant may claim to be economically or financially affected. Thus, access to the non-public operating procedures should be confined to market participants that are operationally affected, only after a demonstration of need by those market participants.

However, FERC found CAISO's filing to be deficient as it lacked a sufficient description of the criteria used to determine if a market participant should be provided access to the non-public operating procedures. Accordingly, FERC directed CAISO to submit tariff sheets setting forth the criteria that CAISO would use to determine whether a market participant that is operationally affected may receive access to the non-public procedures. Among other things, the tariff sheets should include an explanation of what constitutes being "operationally" affected, and a timeline for permitting or denying access to the information, FERC said.

Western Power Trading Forum had protested CAISO's original filing, calling the access limits vague and overly broad.

### ***Briefly:***

**Maryland IOUs Seek Extension on RPS Filing Date as Parties Discuss SOS Solar Obligations**

Allegheny Power, Baltimore Gas and Electric, Delmarva Power, and Pepco asked the Maryland PSC to grant a delay in filing the new solar component of the annual RPS

report due April 1, as the IOUs anticipate that some or all of the wholesale SOS suppliers will seek cost recovery for the increased RPS obligations under the solar requirement that took effect in 2008. Suppliers are allowed to recover such additional costs under the Full Requirements Service Agreement, upon PSC approval. The IOUs have met with stakeholders regarding the solar requirements imposed on suppliers under the 2007 Full Requirements Service Agreement (for delivery year June 1, 2008 through May 31, 2009), and said discussions continue. An extension of the RPS report deadline will allow parties to file a proposal addressing such solar requirements. Stakeholders have committed to file such a proposal by May 1, and the utilities asked that the RPS report filing deadline be extended until the Commission rules on any such proposal.

#### **Pa. PUC Approves Citizens', Wellsboro Supply Rates**

The Pennsylvania PUC approved a Generation Supply Service Rate of \$0.088099/kWh at Citizens' Electric and a Generation Supply Service Rate \$0.076571/kWh at Wellsboro Electric, with each effective April 1.

#### **Shell Energy Granted Pa. Gas License**

The Pennsylvania PUC granted Shell Energy North America a retail gas supplier license as a broker/marketer for the territories of Columbia Gas, Equitable Gas, PECO Energy, Dominion Peoples, UGI Central Penn Gas, UGI Penn Natural Gas, and UGI Utilities. Shell intends to only serve commercial and industrial customers at this time.

#### **ERCOT to File Updated Entergy Integration Study By April 15**

ERCOT reported that it expects to file a revised Phase III study regarding integration of Entergy Texas into ERCOT by April 15, 2009. The updated study was required after new reliability contingencies were discovered that were not included a December report (Matters, 3/12/09). The new contingencies have resulted in the addition of five "relatively minor" reliability projects, ERCOT said.

However, ERCOT's revised Phase III Study Report will be filed prior to the completion of the transient stability analysis performed by PowerTech Labs, Inc, although ERCOT stressed it has a high level of confidence that PowerTech's results will not have a material impact on ERCOT's analysis. The integration study is required for Entergy to update its transition to competition plan (33687).

#### **Calif. PUC Approves Allocation of SCE Peaker Costs on All Customers**

The California PUC approved Southern California Edison's application to allocate the costs of four peaking units built in response to 2006 reliability concerns to all benefiting customers, including those on competitive supply (A. 07-12-029, Matters, 3/24/09). Since the peakers were built to enhance grid reliability and benefited all customers, the PUC said it was equitable for all distribution customers to pay for the units.

#### **Texas House Passes Billing Terms Legislation**

The Texas House approved HB 1822, which requires the PUCT to develop a list of defined terms common to the electricity industry, and requires that such terms be labeled uniformly on each retail bill sent to a customer by a REP (Matters, 3/2/09).

#### **Pa. ALJ Recommends PECO Default Service Settlement**

A recommended Pennsylvania PUC decision favors adopting a settlement to set PECO's default service procurement plan without modification (Matters, 3/11/09).

#### **Vault Energy Solutions Seeks Texas Aggregation License**

Vault Energy Solutions applied for an aggregator certificate at the PUCT, to pool the loads of small business tenants in shopping plazas.

#### **Md. Approves Withdrawal of DIBCO Broker License**

The Maryland PSC approved broker DIBCO, LLC's request to withdraw its electric broker license. Since being licensed in March 2008,

DIBCO has never served customers.

### **Pa. PUC Approves Calculations for Efficiency Targets**

The Pennsylvania PUC approved specific energy consumption and peak demand reductions that electric distribution companies must achieve under the requirements of Act 129. Under Act 129, the distribution companies must reduce electricity consumption by 1% by May 31, 2011, and by 3% by May 31, 2013. Under the approved calculations, the aggregate energy consumption reductions are to total 1.5 million MWh by 2011 and 4.4 million MWh by 2013. The Act also requires a 4.5% reduction in peak demand by May 31, 2013, which is to equal 1,193 MW under the calculations approved by the PUC.

### **Comverge Signs 48 MW in Maryland Contracts**

Comverge said it has entered into virtual peaking capacity contracts totaling 48 MW with two Maryland utilities.

### **Delmarva Prepping 10,000 Smart Meter Test**

Delmarva Power announced it is preparing to deploy smart meters to 10,000 Delaware residential customers in the coming months as part of its advanced metering program (Matters, 9/18/08). The field test will include customers in Delaware ZIP codes 19802, 19801, 19720, 19946 and 19962. The Delaware PSC has approved smart meter installation for Delmarva's 300,000 customers.

### ***Pa. Rulemaking ... from 1:***

the number of cases where marketers take advantage of uninformed consumers with price offers that in reality cost consumers more than if they simply not had shopped," Christy said.

According to Christy, the Price to Compare would also be adjusted under the draft rules so that gas procurement costs are included in the bypassable price, and removed from base delivery rates. Christy worried that if procurement costs, or other

costs which may be removed from base rates, are not avoidable but are included within the Price to Compare, then such costs may not be recovered by the LDCs, potentially resulting in stranded costs. "Under this scenario, consumers of the [LDC] who choose not to shop will be paying higher costs to support those customers who do choose to shop," Christy said.

The rulemaking would also set permanent rules for establishing voluntary purchase of receivables programs, and provide guidance to ensure that the release, assignment or transfer of capacity by an LDC is nondiscriminatory and executed at the applicable contract rate.

Chairman James Cawley said the capacity release provisions are relatively broad, and may not be sufficiently specific to address every alleged inequity in the allocation of upstream transportation and storage capacity, and the costs of capacity assigned to competitive suppliers that assume the firm service obligations of their retail customers. Cawley thus encouraged suppliers that regard existing capacity release provisions in LDC tariffs as a barrier to competition to provide specific examples of such barriers in the Pennsylvania retail market, and to suggest alternative regulatory language that would resolve such barriers within the bounds of existing legislation while reasonably accommodating the operational constraints of LDCs.

Additionally, the proposed rules would change the handling of the recoverable costs related to competition activities and regulatory assessments. Such costs are not to be considered in the calculation of the Price to Compare under the draft.

The rulemaking results from legislation and the PUC's SEARCH plan to promote effective competition in the retail gas market (Matters, 9/12/08).

### ***TRECs ... from 1:***

Community Choice Aggregators under the draft.

The revised proposed decision says the limited use of tradable RECs by utilities in the

early years of the tradable REC market will promote the price stability associated with long-term, fixed price bundled RPS contracts, without stifling the tradable REC market. The limit would also allow all market participants, as well as the Commission, to gain experience with the tradable REC market in a more controlled way.

The new draft would retain the \$50/REC price cap on tradable RECs used for utility RPS compliance, with the cap intended as a temporary measure lasting at least 24 months. The updated proposal also maintains the previous three-year limit on banking tradable RECs with respect to the date of retirement.

As under the previous draft, all LSEs would have to report tradable RECs prices, even if their purchases are not subject to Commission approval, for the purposes of market monitoring. Marketers had opposed the reporting requirement as burdensome (Matters, 11/20/08).