

# Energy Choice Matters

*April 9, 2009*

## **AEP Ohio Utilities Seek Authority to Expand Deposit Criteria for Non-Residential Customers**

Columbus Southern Power and Ohio Power have asked PUCO for a waiver of current rules regarding deposits, to allow the AEP utilities to expand the circumstances under which a deposit can be required from non-residential customers.

Currently, after a non-residential customer's initiation of service, a deposit requirement may only be applied if the customer is past due on two consecutive bills, has received a disconnect notice for nonpayment twice in the previous 12 months, or had service disconnected for nonpayment or fraudulent practices in the past 12 months.

The AEP utilities reported that they experience commercial and industrial customer arrearages which become uncollectible even during normal economic conditions, because such customers did not trigger the conditions allowing the imposition of a deposit. Given the current financial downturn, the AEP companies believe the creditworthiness of a growing number of commercial and industrial customers has deteriorated to a point where a deposit would be required if the customers were now applying for initial service. However, since such customers are not initiating service, and do not meet the other criteria for imposition of a deposit on current customers (such as previous past due bills), AEP cannot impose a deposit requirement on such customers.

"This growing number of commercial and industrial customers exposes the Companies to an

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## **NYISO Sees Lowest Prices in Five Years, N.Y. Politicians Continue Criticism**

As the New York ISO announced wholesale prices have dropped to the lowest level in over five years, New York state politicians ramped up their criticism of the ISO and its single clearing price market structure.

NYISO reported that the average cost of wholesale electricity in the state was \$45.63/MWh for the month of March, which is the lowest price since the average cost of \$43.40/MWh seen in November 2003. Prices are down from \$73.28/MWh in January of this year.

The system operator attributed the price drop to lower natural gas prices and reduced demand. Average daily electricity usage in New York State was 422 GWh in March 2009, down from 447 GWh/day in February 2009 and 432 GWh/day in March 2008.

However, 14 politicians, including Kevin Cahill, Chair of the Assembly Committee on Energy, and Richard Brodsky, Chair of the Assembly Committee on Corporations, Authorities, and Commissions, sent a letter to NYISO CEO Stephen Whitley containing questions focusing on ISO practices, the market clearing price mechanism, disclosure, and openness. Lawmakers requested that NYISO explain why the ISO won't identify bidders, what measures are in place to prevent market manipulation, and what recourse is available in cases of manipulation.

"We can no longer afford to allow the ISO to exist in the shadows. If the ISO is going to continue to operate the electricity grid in New York, they are going to have to be held accountable for acting in the best interests of ratepayers," Cahill said.

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## United Illuminating Reports March 2009 Shopping Data

<b>3rd Party Supplier Accounts</b>	<b>March '09 Residential</b>	<b>March '09 C&amp;I</b>	<b>March '09 Total</b>	<b>Feb. '09 Total</b>
Clearview Electric, Inc.	-	-	-	-
Consolidated Edison Solutions	1,505	706	2,211	2,063
Constellation New Energy, Inc.	319	3,071	3,390	3,260
Direct Energy Business, LLC (Strategic)	10	648	658	651
Direct Energy Services, LLC	6,191	1,101	7,292	7,242
Dominion Retail, Inc.	15,506	1,127	16,633	16,720
Gexa Energy Connecticut, LLC	1	96	97	75
Glacial Energy of New England, Inc.	28	337	365	367
Hess Corporation	-	53	53	60
Integrays Energy Services, Inc.	3	1,733	1,736	1,740
Liberty Power Delaware, LLC	-	23	23	23
MX Energy	1,225	916	2,141	2,184
Public Power & Utility, Inc.	2,036	467	2,503	2,115
Sempra Energy Solutions	30	615	645	647
Suez Energy Resources NA	-	110	110	110
TransCanada	8	455	463	462
<b>Total All 3rd Party Suppliers</b>	<b>26,862</b>	<b>11,458</b>	<b>38,320</b>	<b>37,719</b>

### UI Aggregate Data

<b>Last Resort Service-UI</b>		%
Total # ALL Accts	293	
Total ALL MWs	122,554	
Total 3rd Party Accts	253	86%
Total 3rd Party MWs	111,376	91%
<b>C&amp;I Standard Service-UI</b>		%
Total # ALL Accts	38,066	
Total ALL MWs	171,775	
Total 3rd Party Accts	10,975	29%
Total 3rd Party MWs	90,488	53%
<b>Residential Standard Service-UI</b>		%
Total # ALL Accts	290,205	
Total ALL MWs	175,227	
Total 3rd Party Accts	26,491	9%
Total 3rd Party MWs	18,292	10%
<b>Total All UI</b>		%
Total # ALL Accts	328,564	100%
Total ALL MWs	469,556	100%

### CT Clean Energy Options Data

<b>CT Clean Energy Options Accounts</b>	<b>Residential</b>	<b>C&amp;I</b>	<b>Total</b>
Community Energy 50%	276	4	280
Community Energy 100%	2703	44	2,747
Sterling Planet 50%	252	9	261
Sterling Planet 100%	835	63	898
<b>Total All CT CleanEnergy Options Suppliers</b>	<b>4,066</b>	<b>120</b>	<b>4,186</b>

*Data as reported by UI*

## Gas Purchasers Request Extension on New Price Reporting Requirements

Associations representing a host of large natural gas purchasers, including LDCs, power generators and industrial customers, have asked FERC for a two-month extension in the deadline for filing Form No. 552, until July 1, 2009, due to continued confusion regarding the new reporting requirements for entities previously not under FERC's jurisdiction (RM07-10).

FERC's Order 704 expanded the breadth of natural gas market participants subject to Commission reporting requirements, requiring a host of new entities to file information about their physical natural gas transactions for each calendar year under Form No. 552. Order 704 requires reporting on all transactions that use, contribute to, or could contribute to a price index, in a move meant to increase gas market transparency.

As an initial matter, the Associations noted Order 704 requires Form No. 552 to be completed by an array of market participants who have previously had little or no experience with the Commission's reporting requirements, and limited exposure to price reporting practices. Many market participants now required to complete Form No. 552 historically have not reported prices to index publishers and have been largely unregulated by the Commission. As a result, in many cases, these companies have not had processes and corresponding information systems in place for compiling and maintaining in a readily accessible fashion the detailed information required to accurately complete Form No. 552, the Associations said.

Moreover, when companies began to develop and implement new processes and make informational system changes, they discovered that Form No. 552 contains ambiguities and subtle inconsistencies that can exponentially increase the time required to understand and complete the form. Even after the clarifications provided in Order No. 704-B, market participants have struggled, and continue to struggle, to discern what

exactly should be included on Form No. 552, the Associations reported.

"For example, many respondents' interpretations about what constitutes a reportable trigger agreement, NYMEX Plus agreement, or LDC cash-out have continued to change over time since Order No. 704-B. Similarly, other respondents have struggled to understand the scope of the express exclusion for unprocessed gas, which FERC Staff discussed in guidance posted on March 6, 2009," the Associations said.

Additionally, natural gas purchasers, including some local distribution companies, that source some of their gas supply needs internationally remain uncertain as to how to distinguish reportable and non-reportable transactions that occur at points outside the United States where the purchaser holds pipeline capacity from such points into the United States, the Associations noted.

While FERC had estimated that the regulatory burden for complying with the filing requirements would be approximately 40 hours and \$400 dollars per respondent, experience has proven otherwise for many market participants, the Associations said.

For example, a large industrial company may have 75 small plants across the country, each individually managing its own natural gas supply and entering into transportation arrangements with pipelines and local distribution companies. Although many of these plants may fall below the de minimis threshold for reporting volumes, because they are not separate legal entities, the company must review each and every volume bought or sold by each and every plant, and review the invoices from pipelines and local distribution companies along with the transporters' tariffs to determine what if any volumes are reportable under the Commission's policy regarding cash-outs.

The Associations asking for the two-month deadline extension include the American Forest & Paper Association, the Process Gas Consumers Group, the Interstate Natural Gas Association of America, the Electric Power Supply Association, the Independent Petroleum Association of America, and the American Gas Association.

## CAISO Weighing Long-Term Contract EBB Options

California ISO stakeholders are today discussing ways the ISO can comply with FERC's directive in Order 719 to develop an electronic bulletin board for long-term contracts.

FERC directed RTOs to develop the electronic bulletin board to increase transparency and facilitate long-term contracting in organized markets.

CAISO has studied various manual and automated methods of offering a long-term contracting bulletin board, and said there may be many benefits from partnering with PJM, and other RTOs, by creating a bulletin board for long-term contracts in connection with PJM's current eSuites site. The eSuites solution would be simple and low-cost, CAISO said.

Under the PJM proposal, the bulletin board would be accessible to the public, but market participants would need an account to post bids or offers. Creating an account, however, would not require any buyers or sellers to join PJM as members, or invoke any PJM credit requirements or other standards.

PJM would merely act as an administrator of the bulletin board, and would not be responsible for the postings. Contracts posted on the board would not be settled via PJM billing.

### **Briefly:**

#### **BGE to Request Approval to Share Customer Lists**

Baltimore Gas and Electric has informed competitive electric and natural gas suppliers that it will file a request with the Maryland PSC in mid-April for approval to provide suppliers with a mass market gas and electric customer list, including account numbers. BGE will recommend an opt-out provision for customers wishing to be excluded from the list. BGE said that, upon approval, it anticipates completing and distributing the list to suppliers within 90 days. The list, BGE said, will be in addition to various provisions

in RM 17 and RM 35 that seek to enhance customer choice in Maryland.

#### **DPUC Opens Docket to Review Long-Term Contracts**

The Connecticut DPUC has opened docket 06-01-08RE03 to review long-term contracts for default service. After receiving approval from the DPUC to procure up to 20% of Standard Service supplies on long-term contracts, Connecticut Light and Power and United Illuminating issued a Notice of Interest in August (Matters, 8/6/08). UI subsequently said it planned to issue a two-phase RFP in 2009. The first phase was to seek simple transactions for energy, Class I RECs, or both products bundled together. Pricing for Phase I was to be limited to fixed prices, or pricing that is fixed at the onset with some form of escalation based on a non-fuel index. Volumes for Phase I were to be fixed or unit contingent. Transactions that include a gas or oil fuel cost component or pass through will be deferred to the second phase, which will generally include transactions and pricing mechanisms that are more complex than those sought in Phase I, UI said.

#### **Texas Opt-Out Aggregation Bill Remains in Committee**

The Texas House of Representatives State Affairs Committee voted out HB 631, which would codify in statute the PUCT's authority to investigate the financial, managerial, and technical performance of a REP at any time, and inspect the books and records of a REP at any time. The bill would also codify in statute an annual reporting obligation for REPs. State Affairs also voted out HB 870, which would delay the transition to competition at SWEPCO under the same conditions as approved by the Senate (Matters, 4/3/09). Meanwhile, HB 2780, which would institute municipal opt-out aggregation, was left pending in the House Energy Resources Committee after a public hearing yesterday.

#### **TCS Energy Receives REP Certificate**

The PUCT granted a REP certificate to TCS Energy (Matters, 4/3/09).

### **DPUC Awards Aggregation License to Positive Energy**

The Connecticut DPUC granted Positive Energy an electric aggregation license to serve residential, commercial, industrial, municipal and governmental customers.

### **Gracey Energy Seeks Texas Aggregation License**

Current broker-consultant Gracey Energy Consulting applied for an aggregator certificate at the PUCT, for commercial and industrial customers. Gracey said it intends to pool oil and gas service companies, as well as restaurants.

### **Texas Energy Aggregation Renews Opposition to Texas Electricity Aggregation Name**

Current aggregator Texas Energy Aggregation renewed its objections at the PUCT to the new aggregator license application of Texas Electricity Aggregation, reiterating its belief that the similar names has already caused confusion for one REP, and will likely produce more confusion for REPs and consumers (Matters, 2/13/09). Texas Energy Aggregation said continued actions by Texas Electricity Aggregation to use its desired name will result in legal action taken by Texas Energy Aggregation.

### **CPower Awarded Maryland Utility Load Response Contracts**

CPower has entered into demand response contracts with Allegheny Power, Pepco, and Delmarva Power and Light, in connection with the gap RFPs issued by the utilities to ensure reliability in 2011-12. CPower did not disclose the amount of megawatts covered by the contracts, but said the agreements push its total capacity in the region to 200 MW.

### **D.C. PSC Approves Revised RPS Compliance Form**

The District of Columbia PSC approved a revised compliance report for electric suppliers to use in RPS compliance filings, starting with the report due May 1, 2009. The final version clarifies from an earlier draft that suppliers receive 110% credit for energy

derived from methane on or before December 31, 2009, and energy derived from wind after December 31, 2006, and on or before December 31, 2009 (FC 945).

### ***AEP Ohio ... from 1:***

increasing and extraordinary level of uncollectibles, the cost of which ultimately will affect the rates of both Companies' customers," the AEP utilities said.

Depending on the size of the commercial or industrial account, the uncollectible amount can be in the hundreds of thousands of dollars, the companies noted.

Under the AEP utilities' proposal, the utilities would apply an objective evaluation of credit risk of existing customers based on evaluations made by credit rating agency Value Line Financial Services. If a non-residential customer's credit rating falls below a "B" rating by Value Line, the utilities would be entitled to require such customer to re-establish creditworthiness by means of providing a deposit to the utilities (or the retention of a deposit otherwise due to be returned to the customer).

The stricter deposit measures are needed, the AEP companies said, to address, "the increasingly common practice of commercial and industrial customers staying current on their electric bill right up until the time they go out of business, leaving the Companies with the daunting task of collecting the amount due with a complete lack of leverage."

"The Companies believe that granting this waiver is preferable to an uncontrolled increase in uncollectibles," the utilities added.

If a Value Line rating is not available for the customer, the AEP utilities would refer to the Dunn & Bradstreet Composite Credit Appraisal, with a Dunn & Bradstreet appraisal score below "2" (out of 4) triggering a deposit.

The AEP Companies proposed that the new deposit requirements be implemented for a period ending April 30, 2011.

**NYISO ... from 1:**

The politicians have attacked the "bizarre" single-clearing price auction used in the NYISO, citing a report by McCullough Research (Matters, 3/4/09). The NYISO has since countered the report with a study from the Analysis Group (Matters, 3/30/09).