

Energy Choice

Matters

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FERC Approves CAISO Standard Capacity Product With Ancillary Services MOO

FERC approved with modifications the California ISO's tariff revisions to institute a standard capacity product, but let stand a requirement which imposes an ancillary services (A/S) must-offer obligation for resource adequacy resources subject to the current energy must-offer requirement, dismissing the concerns of several generators (ER09-1064, Matters, 5/20/09).

"[I]mplementation of the proposed A/S Must-Offer Obligation will support the primary goal of the resource adequacy program, which is to ensure that sufficient capacity is available to the CAISO in all hours to meet system demand and the operating requirements of the transmission grid," FERC said.

The ancillary services must-offer obligation, "will prevent suppliers from withholding ancillary services, as well as allow for a more efficient procurement of ancillary services," the Commission added. Without the must-offer obligation, the Market Redesign and Technology Upgrade requirement that CAISO procure 100 percent of its forecasted ancillary service needs by the close of the integrated forward market could create incentives for withholding ancillary services bids, thereby driving prices for ancillary services artificially high, FERC reasoned.

"[W]e do not agree that these resources should receive additional compensation for complying with the A/S Must-Offer Obligation," FERC added. To the extent that Calpine had argued for additional compensation above and beyond the market price for the services provided, FERC found that Calpine provided no support for such compensation. "Insofar as Calpine is seeking additional capacity revenue for resource adequacy capacity that provides ancillary services, we note that resource adequacy capacity payments are the result of bilateral negotiations that are not governed by the MRTU Tariff," FERC added.

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O&R Files to Revise MHP Plan, Delaying Access of Online Data to New Customers

Orange and Rockland has petitioned the New York PSC for permission to revise its implementation plan for the expansion of hourly pricing, but would maintain the anticipated start date of May 2010.

The expansion of mandatory hourly pricing to customers with demands of 500 kW from the current 1,000 kW cutoff was required in last year's rate case, with O&R's implementation plan approved earlier this year (Only in Matters, 2/13/09).

O&R has asked to delay providing new hourly pricing customers with access to online hourly usage data, due to planned computer system upgrades that affect the acquisition of hourly customer data and the ability of customers to access such data. Although the expansion of hourly pricing begins next May, new hourly pricing customers have already received interval meters to allow them to understand their usage and undertake any measures to change their load shape ahead of the start mandatory hourly pricing.

Current hourly pricing customers can access their hourly data and run various pricing and usage scenarios through an online portal. Expanding the current program, however, requires additional

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R.I. Gov. Signs Bill Requiring Long-Term Renewable Contracting at National Grid

Rhode Island Gov. Donald Carcieri signed a law (H5002Aaa/S0111Aaa) compelling National Grid to procure at least 90 MW of renewable energy, capacity, and RECs via long-term contracts, with such costs to be paid via nonbypassable surcharge.

The contracts, up to 15-years in length, are intended to aid the Deepwater Wind offshore project. National Grid could execute longer contracts with PUC approval, and procure additional capacity with PUC approval. The 90 MW mandate includes a 3-MW solar carve-out as well.

Contracting under the new law will also relieve National Grid of the obligation to procure renewable energy from other sources via long-term (3+ year) contracts under the RPS, but not the RPS obligation itself.

Unless the Commission approves otherwise, all energy, capacity and RECs purchased by National Grid pursuant to the law shall be sold into the wholesale spot market (for energy and capacity) or through a competitive bidding process (for RECs). However, Grid could apply to use the energy, capacity and RECs from the contract to serve its customers.

The costs or benefits of the contracts will be attributed to distribution customers via nonbypassable surcharge.

NECPUC Opposes Limits on Self-Supply in New England FCM

The New England Conference of Public Utilities Commissioners cautioned FERC against drastic changes to the Alternative Price Rule in the ISO New England Forward Capacity Market, cautioning such changes could prevent load serving entities from exercising their right to self-supply under the capacity market.

The internal market monitor has suggested changes to the rule to further prevent out-of-market resources from setting artificially low prices (Matters, 6/10/09). Under the internal monitor's proposal, bilateral contract-based entrants would have to offer closer to their true costs in order to avoid being designated as

out-of-market, and triggering an administratively set price.

"In other words, if this proposal were accepted, any load-serving entity that entered a bilateral contract for capacity would run the risk that its contracted capacity resource would either be treated as 'out-of-market' or would not clear at all and would not be counted against the capacity zone's [Local Sourcing Requirement], thus increasing the capacity charges for the entire zone without contributing to any greater reliability," NECPUC warned.

NECPUC also called proposed changes to pay existing capacity more than the self-supply or bilaterally contracted resource that is deemed out-of-market, "blatantly discriminatory treatment that will further discourage load's efforts to hedge against variable market prices."

N.Y. Rules Bilateral, Behind-the-Meter Renewable Power not Eligible for RPS

The New York PSC denied a petition for a declaratory order from renewable developer Catalyst Renewables to allow bilateral behind-the-meter renewable sales to qualify under the RPS.

Catalyst owns a 19 MW biomass-fired generating facility and is actively trying to develop additional biomass-fired facilities in New York State. Catalyst requested a declaratory order that electricity from new qualifying renewable generating facilities sold via bilateral, behind-the-meter transactions may qualify for Main Tier RPS program benefits on the same terms as electricity sold into wholesale electricity markets in New York State.

However, the Commission denied the request, reasoning that behind-the-meter sales do not make the same contribution to the Commission's overall objective of obtaining 25% of New York's electricity requirements from renewable resources as any other bilateral transaction. The baseline sales forecast from which the 25% goal is measured does not include behind-the-meter sales, the PSC noted.

"If we were to allow behind-the-meter sales to be eligible in the Main Tier, we would also likely have to increase the baseline to account for all current behind-the-meter sales, most of which

are from non-renewable resources such as diesel generators," the Commission added, noting that it generally lacks jurisdiction over such behind-the-meter sales.

"In addition, behind-the-meter transactions are different in that we have no independent, verifiable, or automated mechanism to measure such transactions," the PSC said.

Furthermore, Catalyst's request would only be viable if the Commission changed its Environmental Disclosure Program to accommodate the unbundled sales of electricity and renewable attributes, an issue Staff is still investigating due to, "difficult legal, logistical and potential cost barriers."

Generators Say PJM Market Monitoring Proposal Consistent with Order 719

Generators and transmission owners backed PJM's proposed changes regarding market monitoring in response to FERC Order 719, while state regulators and other load representatives echoed comments made by the Independent Market Monitor by arguing that the changes go beyond the requirements of Order 719 (ER09-1063).

As first reported by *Matters* (Matters, 5/28/09), PJM's proposal to remove the Independent Market Monitor (IMM) from tariff administration was opposed by the IMM, as the IMM claimed PJM misinterpreted Order 719 with respect to the role market monitors may have in prospective mitigation.

The Pennsylvania PUC reiterated much of the IMM's May protest, stating, "PJM seeks authority from your Commission to insert itself into a market monitoring role which would put PJM in a conflict of interest with its members and is directly contrary to the terms of the 2007 settlement agreement resolving complaints filed by the PaPUC, other state commissions, state agencies and retail and wholesale electricity customers."

"The PJM proposal would permit PJM to exercise management control over market monitoring and mitigation and gravely compromise the independence and core functions of the PJM market monitor," the Pennsylvania PUC added.

The Maryland Office of People's Counsel and Ohio Consumers' Counsel similarly said that PJM's proposal contravenes the Reliability Pricing Model settlement, which invested in the IMM specific duties and functions with respect to mitigation. The Organization of PJM States likewise said that PJM's revisions would strike at the heart of the 2007 market monitoring settlement.

Filing jointly, the Old Dominion Electric Cooperative, Southern Maryland Electric Cooperative, PJM Industrial Customer Coalition, District of Columbia Office of the People's Counsel, and the Public Power Association of New Jersey said that FERC has deemed the previous PJM market monitoring settlement agreement to be consistent with Order 719, with the co-ops further arguing that no changes to the division of roles and responsibilities are necessary.

The PJM Power Providers Group (P3), however, said that the IMM, in its May protest, "asserts that significant swaths of the PJM's Tariffs should be moved to Attachment M, over which the IMM proposes to have exclusive authority," which is in "direct conflict" with the "clear directive" that market monitors are not to participate in the administration of the RTO's tariff, except in limited circumstances.

Constellation Energy made similar comments, and Duke Energy said it would be inappropriate to grant the IMM authority over new areas and responsibilities.

Shell Energy North America, "supports PJM's position and proposed tariff amendments that leave it with the sole responsibility of tariff administration and application of prospective market mitigation."

Dayton Power and Light cautioned that granting the IMM a preeminent role in mitigation would bypass PJM involvement, and force market participants to appeal matters directly to FERC.

The Pennsylvania PUC also opposed what it called a "blank check" in tariff authority requested by PJM, under which PJM would be allowed to accept Sell Offers in RPM auctions regardless of the findings of the IMM.

Scarcity Pricing

In its compliance filing, PJM conceded that its

market currently does not meet the Order's standards for scarcity pricing, but said a stakeholder process should continue before changes are made. Most generators agreed with that approach, though they urged FERC to ensure that PJM makes a timely filing to improve scarcity pricing.

Constellation urged the Commission to hold PJM to a "firm schedule" with respect to its intent to develop an operating reserves demand curve to address scarcity pricing, while P3 asked FERC to set deadline for an informational filing on the plan. Shell likewise suggested bi-monthly updates on the status of the scarcity pricing effort.

In lieu of a demand curve with administratively determined prices, Exelon suggested defining scarcity in relation to operating reserves and allowing price caps to rise gradually as available supply approaches operating reserve margins, but with the market determining the price within the cap.

"[T]he biggest impediment to more robust demand response is that energy prices are subject to mitigation procedures even as shortages are developing and demand resources would be most valuable," Exelon said of the current scarcity pricing process in PJM.

Dayton Power & Light, though supportive of improvements in scarcity pricing, questioned whether such measures were simply adding yet another bandage to an already bandaged wound, with stakeholders failing to ask the larger question of why there may be scarcity in the PJM market to begin with. Dayton noted that load interests oppose a higher Cost of New Entry which hinders new entry, while mitigation of nearly all capacity offers also discourages entry.

Governance

While consumer advocates have recently claimed that load interests are under-represented at RTOs, generators and transmission owners cautioned FERC that market participants investing billions into the market, with the responsibility of ensuring adequate capacity and supply, are being marginalized under PJM's current process.

"P3 members, representing the transmission and generation sectors, do not believe that the current voting structure at the Members

Committee level is fair, balanced or accurately reflects the views of the overall PJM membership, as some sectors have a disproportionate share of the weight of the vote," P3 said.

"The current sector-weighted voting rules result in skewed voting outcomes that misinform the Board, primarily due to the substantial influence of small coalitions of industrial end users, other suppliers and municipal utilities," P3 asserted.

Dayton Power noted 60% votes are in the hands of interests which own no generation or transmission.

"Joe Trader and others like him who buy and sell Financial Transmission Rights out of their home offices have an equal vote with the investor owned utilities and their affiliates that together own tens of thousands of MW of generation and thousands of miles of transmission lines, and serve more than 90% of the load within PJM," Dayton protested.

Dayton suggested enhanced voting rights for generation and transmission owners, perhaps accomplished by weighing votes according to asset investment.

P3 also noted that the default allocation in PJM makes asset owners, such as the generation and transmission owners, pay a "grossly disproportionate" share of defaults when compared to their modest voting interests.

The PJM Industrial Customer Coalition, however, said that to the extent that voting rights need to be revised, "the consumers of energy in PJM should be afforded more voting weight than they have now, because most costs of the system are ultimately borne by them." Several consumer advocates reiterated comments made earlier this month in a National Association of State Utility Consumer Advocates report in seeking more load representation at RTOs.

Bid Disclosures

DC Energy was among those arguing PJM's proposal to increase transparency with respect to bid data does not go far enough. While PJM proposed shortening the lag for bid data release from six months to three months, DC Energy protested that the data will still be aggregated.

The aggregation of all of virtual and demand bid data into one system-wide stack is neither

location specific nor participant specific, rendering it "effectively useless," DC Energy said.

The Illinois Commerce Commission also pressed for greater bid disclosure.

"PJM's decision to continue to indefinitely mask bidders' identity is unsupported by fact or any evidence that unmasking bid and offer data can be used by market participants to achieve non-competitive ends ... If there are concerns about collusion or bid/offer fixing, removing the cover that bid masking provides would virtually eliminate the ability of market participants to engage in such practices," the ICC said.

The ICC noted that competitive electricity markets operated in Australia, England and Wales offer significantly more public information than PJM, and do so on the day after the operating day basis.

Demand Response

Dayton Power opposed PJM's proposal to allow demand response offers to be bid in increments of 0.5 MW instead of 1 MW, arguing such a policy goes beyond comparable treatment of resources to preferential treatment.

"DP&L has some doubts that demand response in its current form will ultimately prove to be as reliable as generation resources because the core business for an owner of generation resources is to have the unit running or available to run, while the core business objectives of entities asked to reduce load or energy use may be in direct conflict," Dayton said.

Dayton also argued that end users should be ineligible for PJM demand response programs if they purchase power at a standard offer rate, or energy rates that are set administratively and which do not fluctuate with the LMP.

Comverge, CPower, EnergyConnect, EnerNOC, the PJM Industrial Customer Coalition, and Viridity Energy urged PJM to end the requirement that demand resources offer into RPM at \$0, as the resources do entail costs. The curtailment service providers also protested "excessive" credit and collateral requirements currently in place. The Commission should limit the financial assurance deposit requirement in RPM to an amount no higher than the maximum net deficiency penalty (i.e., the maximum exposure market participants would face in the event a demand resource did not deliver the

planned capacity), the curtailment service providers said.

Briefly:

Pa. ALJ Recommends Approval of PPL Opt-In Mitigation Settlement

A Pennsylvania ALJ has recommended approving a settlement which would institute a competitively neutral, opt-in rate mitigation plan at PPL upon the expiration of rate caps on January 1, 2010 (Matters, 6/18/09).

MPS Files Tariff for Green Power Bill Inserts

Maine Public Service has submitted tariff revisions at the PUC (2008-178) to allow renewable energy suppliers to promote their products through the MPS mailed bill. For standard bill inserts that will be sent to all MPS customers, MPS will charge the green power providers a fee of \$0.20 per insert for the costs of inserting and mailing bill inserts. Targeted bill inserts to specific groups of customers may be available at the discretion of MPS, at an additional cost depending on the request.

Mass. DPU Adopts New Net Metering Rules

The Massachusetts DPU adopted revised rules governing the eligibility for net metering (08-75). Among the rules is that distribution companies shall not provide net metering services to a host customer who is an electric company, generation company, aggregator, supplier, energy marketer, or energy broker, as those terms are used in M.G.L. c. 164, §§ 1 and 1F and 220 CMR 11.00.

CAISO ... from 1

FERC also accepted CAISO's proposal that exempts use-limited and hydroelectric resources from the ancillary services must-offer obligation, due to such resources' unique operating characteristics.

The Commission agreed with NRG Energy that self-provision of ancillary services should not count against a resource adequacy resource's obligation to offer energy into the CAISO's markets. Such a provision limits participation in energy markets and is contrary to the purpose of the must-offer obligation,

FERC said. FERC thus directed CAISO to modify its tariff such that the self-provision of ancillary services no longer frees a resource adequacy unit from its energy offer obligation.

Existing resource adequacy contracts executed prior to June 28, 2009 will be grandfathered from the new availability standards under the standard capacity product. CAISO had applied to only grandfather contracts executed prior to January 1, 2009, as a means to prevent parties from rushing to execute exempt contracts, but FERC held that the CAISO was required to give an appropriate period of notice before making such a change.

Also temporarily exempt from the availability standards are resources whose qualifying capacity is determined by historical output (such as wind resources or qualifying facilities), as proposed in CAISO's original filing. Though protested by some generators, FERC agreed that the temporary exemption is appropriate since existing California PUC resource adequacy rules already penalize such resources for poor performance through a reduction in qualifying capacity. Applying the new availability standards would double penalize such units, FERC said.

A similar temporary exemption from the availability standards was also granted to demand response resources due to ongoing efforts to enhance the manner in which demand response resources participate in the CAISO's markets.

However, FERC directed CAISO to file periodic reports on both types of resources granted temporary exemptions, so that the Commission and market participants can monitor the progress of efforts to sunset the exemptions.

The Commission further ruled that the assessment of non-availability charges should more accurately reflect the actual value of the capacity being provided. A graduated approach that establishes incremental non-availability charges throughout the entire dispatchable range of resource adequacy capacity above a resource's minimum operating level more properly aligns with the CAISO's stated goals of providing incentives for resource adequacy resources to achieve greater availability while ensuring sufficient generation capacity to meet

the CAISO's reliability needs, FERC said. Accordingly, FERC directed CAISO to submit a revised proposal for the assessment of non-availability charges that takes a graduated approach.

CAISO, FERC held, has also not shown that its proposed 100 percent availability standard for non-resource specific imports is just and reasonable. "The 100 percent standard does not appear to be grounded in any rigorous evaluation of the historic availability of such resources, or in any other empirical process. Rather, it seems that the CAISO has based its proposed treatment of non-resource specific imports on unsupported assumptions regarding the flexibility of these resources, and what such resources should be able to provide under ideal conditions," FERC said. CAISO was directed to submit a revised availability standard proposal with respect to non-resource specific imports within 45 days.

FERC accepted CAISO's proposal to allow unit substitution of non-resource adequacy capacity for resource adequacy capacity, as proposed, for both local capacity resources and system resources.

O&R ... from 1

computer enhancements in order to add service classifications, develop new rates, and model such new rates based on customer attributes, O&R said.

For existing hourly customers, hourly data is collected and stored in the EEM Suite computer system, which allows customers to view hourly usage and pricing via the internet. However, independent of the change in the hourly pricing cutoff, O&R is in the process of replacing the computer system used for storing and displaying hourly customer data and pricing information. The implementation of a new Meter Data Management (MDM) system, which is replacing the outdated Load Profile Data System (LPDS), is a combined project with sister utility Consolidated Edison.

Once the EEM Suite is incorporated in the MDM system, customers may use the data to produce different usage and pricing scenarios. The implementation of MDM (with its incorporation of the EEM Suite) is projected to

be implemented by Itron during December 2009.

However, to give new hourly pricing customers access to the same data that will be available under the new MDM system would cost \$40,000-50,000, for modifying the current EEM Suite program within LPDS. Such changes would also take three months to implement.

"Therefore, it is not cost-effective for the Company to invest in changing the EEM Suite program within LPDS, since it will be in use only for a few months. The Company's expenditure of this amount for such a short-term benefit also conflicts with the Commission's recent directives that utilities implement austerity savings," O&R said.

Accordingly, under O&R's revised plan, new hourly pricing customers would not have full online access to review their hourly data from May 2009 to April 2010 until December 2009. New hourly pricing customers will still have access to hourly usage data from May 2009 through December 2009 upon request, O&R said.