

Energy Choice

Matters

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REPs Say Listing Specific End Date for Contracts Would be "Misleading" to Customers

Requiring REPs to list a specific date for which fixed rate products will end would be "misleading" to customers due to the fluid nature of meter reads in the ERCOT market, several REPs said in comments at the PUCT on implementation of HB 1822. The filing was made jointly by CPL Retail Energy, Constellation NewEnergy, Direct Energy, First Choice Power, Gexa Energy, Green Mountain Energy, and WTU Retail Energy (37070).

Among other things, HB 1822 states that, "A retail electric provider shall include on each billing statement the end date of the fixed rate product." The bill also requires REPs to provide written notice to residential customers of an upcoming fixed rate price expiration between 30 and 60 days prior to expiration. The bill becomes law on September 1.

"Although the intent of this legislation is clear, the specific ways in which this could be carried out was left for the Commission to determine," the REPs insisted.

The REPs noted that the actual contract expiration date is determined by the date a meter is read by the Transmission and Distribution Service Provider (TDSP), not by a specific date in a retail contract.

"REPs cannot control the date on which the TDSP will read the meter; in fact, weather events and other issues may accelerate or delay the meter read and change the actual end of a contract with a customer," REPs said.

"Hence, REPs cannot assign a specific day on which a contract ends and post it on a bill; to do so would be misleading to the customer," REPs added.

REPs noted that the terms "contract expiration date" and "contract end date" used in HB 1822 were not defined in the bill, and require a Commission interpretation.

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PG&E, SCE Say Generators' Default Loss Mechanism Would Harm LSEs

An alternative default loss rule proposed by several generators for the California ISO market would penalize load serving entities that supply most of their load with their own generation, but must schedule such supplies through the CAISO market due to market rules, Pacific Gas & Electric and Southern California Edison said in separate filings at FERC (EL09-62).

Several generators have filed a complaint at FERC over the current default loss rule, arguing that it disproportionately affects sellers (Matters, 7/2/09). Generators suggested allocating default losses to both CAISO debtors and creditors, based on each market participant's absolute value of activities in the CAISO market.

However, PG&E argued that the current credit crisis has not changed the underlying rationale for the existing methodology of allocating default loss risk in the CAISO markets, which was enacted in 1998 and affirmed in 2006.

PG&E stressed that the current rule is not discriminatory because it treats all creditors equally. Under the CAISO's existing default loss rule, if a buyer defaults on an unsecured payment obligation, the loss associated with that default is allocated to all net creditors owed money for the period of time

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IntegrYS Sells Consulting Unit to U.S. Energy Services

IntegrYS Energy Services has signed an agreement to sell its energy consulting business to Minneapolis-based U.S. Energy Services, Inc. for an undisclosed sum. The transaction, which requires certain contractual consents, is expected to close in the third quarter of 2009.

The IntegrYS consulting unit provides advisory and information services in the areas of risk management, strategic sourcing, utility data management, and demand-side energy management. U.S. Energy Services said it will provide former IntegrYS customers access to an expanded list of services and attention to carbon management strategies, as well as expanded reach to European markets.

U.S. Energy Services offers a portfolio of energy management services including supply procurement, nominations, physical and financial hedging, tariff analysis and optimization, energy accounting, plant site development, renewable energy, bill verification, and online reporting of usage and costs.

U.S. Energy Services currently has more than \$1.5 billion of annual energy spending under management, and the acquisition will increase its existing client base of more than 2,000 clients nationwide.

"This is a major opportunity for us to expand our reach and provide energy savings for a larger client base," said Bill Bathe, president, U.S. Energy Services.

The IntegrYS consulting unit required negligible collateral support from its parent and generated sales of approximately \$4 million in 2008.

Maine PUC Rejects Long-Term Contract as Above Market

The Maine PUC rejected an undisclosed pricing proposal bid submitted on July 13, 2009, as part of the Commission's bid process to solicit proposals for long-term contracts for capacity resources and associated energy. "In keeping with our bidding procedure and policy and industry practice, we will keep bid proposals that are not accepted confidential, including the identity of such bidders," the PUC said.

Staff and consultant London Economics reviewed the proposed prices for capacity and associated energy and determined that, using different and reasonable market price forecasts, contract prices based upon the pricing proposal would be higher than expected market prices, the Commission said.

"In our view, the statute (35-A M.R.S.A. §3210-C), in combination with Chapter 316, our rule promulgated to implement section 3210-C, means that before the Commission may direct a transmission and distribution utility to enter into a long-term contract for capacity and energy, the Commission must find that the contract will deliver significant benefits to Maine's rate payers in the way of lower costs or some other monetary benefit," the Commission said, finding that the instant proposal would not do so.

The PUC welcomed the bidder to submit a revised bid, "in hopes that the Commission can find a proposed long-term contract that does achieve significant benefits for Maine's ratepayers."

NARUC Tie to Synapse Carbon Allowance Report Questioned by Several Regulators

Several state regulators from restructured markets voiced criticisms of the National Association of Regulatory Utility Commissioners' backing of a Synapse Energy study that claimed allocation of carbon credits to merchant generators would provide a windfall to generators (Matters, 7/16/09).

"The recent study by Synapse Energy Economics attempting to quantify impacts of proposed federal greenhouse gas cap-and-trade policies is a veiled attempt at criticizing competitive markets," said Public Utility Commission of Texas Chairman Barry Smitherman and Pennsylvania Public Utility Commissioner Robert Powelson in a joint statement.

California President Michael Peevey also questioned how NARUC ended up associated with the study, which was also sponsored by the American Public Power Association, the National Rural Electric Cooperative Association, and the National Association of State Utility Consumer Advocates.

"Organized competitive markets with a single clearing-price structure, such as ERCOT and the PJM power pool, have experienced record increases in renewable and low or non-emitting generation sources, and investments in smart grid technology, demand response and energy efficiency. These positive increases are the result of the competitive market, and not the result of federal mandates. Competitive market structures promote clear price signals which support innovation and investments in clean and efficient generation and smart grid technology," Smitherman and Powelson said.

The duo noted that the Synapse study's "simplistic" approach ignored that most power in ERCOT and PJM is sold in a bilateral market, and not a spot market as the study assumes. While ERCOT and PJM have shown record increases in renewable power generation over the past few years, all generation and emission data in the Synapse analysis are from calendar year 2005.

"The Synapse study criticizes allocations to merchant generators in deregulated markets and argues that such allocations result in windfall profits and do not reduce carbon emissions. In competitive markets, all generators are merchant generators, and compliance costs will increase for merchant coal generators without allowances. This in turn may result in an increased dependence on generation sources fueled by natural gas, which is expected to increase in cost and exhibits high price volatility. In addition, the proposed legislation contains specific provisions to evaluate free allowance allocations and adjust if necessary to ensure that they do not produce windfall profits," Smitherman and Powelson said.

Invenergy, NYSERDA Oppose New Vintage Limit in New York RPS

Invenergy Wind North America opposed several proposed limitations that the New York PSC is considering placing on NYSERDA's next main tier RPS solicitation, arguing that the conditions would exclude lower-priced generation from competing.

In a June notice, the PSC said it is considering placing one or more of the following

conditions on the next main tier RPS solicitation:

1. Only facilities placed in service on or after the date of the solicitation notice may compete. Previously, any project commencing operations on or after Jan. 1, 2003 could compete.

2. The bid evaluation will only consider in-state economic benefits if they are "incremental due to the awarding of an RPS contract," as opposed to consideration of all in-state economic benefits in prior solicitations.

3. Projects taking advantage of American Recovery and Reinvestment Act (ARRA) of 2009 grant funds will be given priority consideration.

Invenergy said conducting a solicitation with such conditions will create market uncertainty that does not benefit New York's RPS program.

Invenergy has constructed the 112 MW High Sheldon Wind Farm despite not being awarded an RPS contract in prior solicitations, but undertook the project which began commercial operations this spring, "based upon the reasonable expectation that further solicitations under the Main Tier program would be issued under terms consistent with recent PSC orders on the RPS and similar to those of previous solicitations."

"The effect of the change in vintage date will reduce competition and may not result in the lowest cost to ratepayers. In the case of existing facilities, such as High Sheldon, construction and development have been completed, and therefore, these facilities can submit bid prices that do not contain extra contingencies for these items," Invenergy said.

NYSERDA agreed that, "Changing the vintage date would reduce the pool of bidders, which can be expected to result in higher bid prices."

"Bidders are aware of the size and scope of their competition, and will tend to increase their bids as the pool of competitors shrinks. A change to the vintage date would also likely suppress development activity in New York for all projects without an RPS contract, as future eligibility would become uncertain," NYSERDA added.

NYSERDA supported the proposed change to limit the range of economic benefits considered in evaluating projects.

Invenergy further argued that giving projects

taking advantage of ARRA grants priority would not further the stated competitive neutrality objectives of the RPS. Timing of the ARRA grants will likely make any such preference impractical, Invenergy added.

AES-NY asked for clarification of the new vintaging requirement, requesting that incremental capacity additions of existing biomass and coal co-firing facilities be eligible to participate as main tier resources in the 2009 solicitation.

Wellinghoff Touts Energy Choice in NARUC Address

The "main driver" of the electric power industry, "must be smart planning for environmentally sustainable energy services that provide customer choice - as well as reliable service - at the least total economic and societal cost," FERC Chairman Jon Wellinghoff said in addressing a National Association of Regulatory Utility Commissioners meeting.

"One way (and I pause to assure you there are potentially many others) to achieve this vision is to tailor our countries' legislation and regulations to rely on robust competitive markets that can fully account for and incorporate the societal costs of sustaining our global environment. Such carefully structured market forces will guide which supply and demand options need to be developed for a sustainable future. But market forces cannot prevail to shape this future unless legislators and regulators act decisively and cooperatively to put the structure in place to achieve this vision," Wellinghoff continued.

Wellinghoff also reported that FERC intends to release in the fall a Staff document on the scope of an action plan relating to FERC's recently released assessment of demand response potential (Matters, 6/19/09).

The Chairman further noted that where state regulators allow retail prices to vary with system conditions, the smart grid can enable customers to lower their electric bills by setting appliances to run when prices are lower, or allowing smart appliances to automatically sense prices and decide when it is cheapest to operate.

EPSA Says ICT, or Other Entity, Must Have More Authority over Entergy System

The entity controlling transmission in the Entergy region must have more authority to facilitate true open access and ensure adequate infrastructure, EPSA said in comments following a June technical conference on Entergy's system (ER09-555).

"To date, the Independent Coordinator of Transmission, under its agreement with Entergy, has not been able to ensure competitive opportunities for non-affiliated suppliers. EPSA views this not as an indictment of SPP as the ICT, but rather as the failure of the current agreement and its implementation," EPSA said.

In the short-term, EPSA said that FERC should require Entergy to eliminate the inconsistency in its transmission planning criteria and ensure consideration of all transmission service requests on an equal basis using transparent redispatch criteria. Longer-term, the transmission operator, whether SPP as the RTO or as the ICT, needs authority to direct construction of the needed transmission, EPSA added.

EPSA noted state regulators are interested in a cost-benefit analysis of Entergy joining the SPP RTO, with Arkansas requiring such a study to be filed (Matters, 7/2/09).

Briefly:

TransAlta Makes Unsolicited Offer for Canadian Hydro Developers

TransAlta has made an unsolicited, all-cash offer of \$654 million (Canadian) to acquire Calgary-based Canadian Hydro Developers, after it failed to reach a negotiated acquisition. Canadian Hydro Developers operates 694 MW of wind, hydro and biomass facilities in Alberta, Ontario, Quebec and British Columbia. It also has 252 MW of advanced-stage development projects in western and eastern Canada. Adding those assets to TransAlta's coal-heavy portfolio would increase its renewable capacity from 15% to 22% (1,900 MW) of its 8,657-MW fleet on a combined basis. Canadian Hydro directors are reviewing the proposal.

Energy Choice Seeks Conn. Aggregation License

Energy Choice LLC applied for an electric aggregator license at the Connecticut DPUC, to pool all classes of customers. Principal Richard Sattler has a background in load management and energy efficiency projects, with various positions at New England Conservation Services as well as Northeast Utilities Service Company. Energy Choice will offer customers two main products: a fixed and a variable rate, with the variable rate targeting both residential and small commercial customers.

Watt2Choose Seeks Texas Aggregator Certificate

Watt2Choose LLC filed for an electric aggregation certificate at the PUCT to pool residential, commercial and industrial customers. Several of its principals are partners are SBL Systems, a firm that offers Control System Engineering and other automation services to manufactures and other industrial customers.

Endure Energy Applies for Ontario Wholesale Licence

Financial marketer Endure Energy, LLC has applied to the Ontario Energy Board for an electricity wholesaler licence.

HB 1822 ... from 1

"Without a specific expiration day, certainty of compliance with the 30-60 day advance notice of contract expiration is not possible. The Commission must determine through rules how compliance will be achieved," the REPs added.

Additionally, no details were provided in HB 1822 as to how the contract expiration date would be worded on the bill.

"Consistent application of this rule across all REPs is important to avoid consumer confusion. Rather than each REP using different terminology, the Commission should adopt consistent standards for wording the contract expiration date to be posted on a bill," the REPs recommended.

The REPs asked the Commission to set a date by which REPs must comply with the requirement of HB 1822, arguing that the September 1, 2009 effective date in HB 1822

does not require concurrent implementation of the applicable rules.

"REPs should not be required to implement changes to electric bills that are not clearly described; to do so may lead to second-guessing, complaints, questions, unnecessary compliance scrutiny, and costly bill format and system changes. All of this can be avoided with Commission rules that clearly state at the outset how REPs will implement HB 1822," the REPs said.

"Legislation often leaves the implementation details and timelines to state agencies. Were this not the case, the need for rules promulgation would, in many cases, be wholly unnecessary. Requiring citizens or entities to comply with laws that do not provide all information necessary to achieve compliance would lead to confusion, inconsistent results, disagreements and litigation," the REPs added.

The REPs pointed to legislation creating Competitive Renewable Energy Zones to support their position, noting that while the act took effect in 2005, rulemakings to implement the act took several years.

REPs asked that once the Commission adopts a rule on HB 1822 implementation, REPs be given at least 90 days to comply with the new rules.

CAISO Defaults ... from 1

corresponding to the default. While typically net creditors are sellers into the market, that is not always the case, PG&E noted, and at times load-serving entities, marketers, or other types of market participants may be creditors and assessed part of the uplift.

Since a seller in any commercial transaction is always at risk that a buyer will default, CAISO's current rule properly allocates default risk since sellers may reflect such risk in their pricing, PG&E said. Buyers, however, do not take on the risk that another buyer will default when purchasing supplies from a seller, nor do they "price into" transactions the risk that other buyers will default. Accordingly, default loss risk should not be imposed on buyers, PG&E argued.

The generators' alternative default loss methodology based on the sum of the gross, absolute value of activities in the CAISO

markets, "dramatically and disproportionately shifts default risk to PG&E and the other load-serving entities," PG&E added.

PG&E and SCE both noted that they self-supply much of their load, and such supplies are only scheduled through CAISO due to market mechanisms. The generators' proposal, however, would consider such self-supplies as market activity when allocating default losses on a pro rata share of market volumes, even though PG&E and SCE argued that since they are not benefiting from the market in such self-supply transactions, they should not be allocated market risk based on such transactions.

Unlike several eastern RTOs, SCE noted that the generators' proposal does not permit load serving entities to net their qualified buys and sells to limit their exposure to defaults.

PG&E also noted that several costs and risks in the CAISO market are allocated to load-serving entities, not sellers. Any realignment of default loss risk should prompt realignment of other risks to include uplift across all market participants, PG&E said.