

Energy Choice

Matters

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Gateway Says ERCOT Customer Payment Database Must be Mandatory to be Effective

A customer payment history database, "will not work unless it is mandatory that all REPs participate in the database and provide customer information on a real time basis," Gateway Energy Services Corporation said in comments to the PUCT (36860).

PUCT Staff have asked whether the Commission has authority to create a customer bill payment database, and whether it has the authority to compel all REPs to provide customer bill payment information to the Commission for the database.

"The entire database concept will fail unless a mandatory reporting requirement is placed on the REPs. If certain REPs are exempt from participating, the data in the database would be rendered incomplete," Gateway said, forcing REPs to fall back on the current approach of requiring customers to obtain and submit their 12 month bill payment history. Absent a mandatory reporting requirement, "[t]he process would be useless," Gateway added.

Gateway recommended that REPs be required to provide the Commission with late payment data for the last 12 months, the number of disconnect notices sent in the last 12 months, the number of actual disconnects and reconnects that occurred for the customer in the last 12 months, whether there is an outstanding balance owed on the account, and how old the outstanding balance is. Access to the secure database should be limited to two or three specific employees of each REP, Gateway said, adding that specific dollar amounts should not be shown in the database.

Costs of the database should be borne by REPs, based upon each REP's load share in the market, Gateway suggested.

Gateway also supported the introduction of a "hard disconnect" policy in ERCOT, backing the mechanics as outlined by MXenergy in earlier comments, including protections for low-income and

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SCE Says Cerritos Petition Would Give City Unfair Advantage Versus Other DA Suppliers

Raising the cap on load which the City of Cerritos, Calif., may serve as a "community aggregator" would provide the city, "a complete and unfettered exemption from the direct access (DA) suspension," Southern California Edison said in a protest filed at the California PUC (Only in Matters, 6/16/09).

Cerritos currently serves a maximum 13.02 MW of load as a "community aggregator" on an opt-in basis pursuant to Assembly Bill 80. AB 80 was adopted after the PUC's suspension of direct access, and allows certain cities to act as "community aggregators" -- with the distinction (if any) between that term and the term "community choice aggregator" developed under AB 117 subject to debate.

A primary impetus for AB 80 was that cities such as Cerritos were participating in the development of the Magnolia Power Plant (MPP) in response to the energy crisis, and had planned to introduce an opt-in, direct access aggregation program to deliver such generation to customers. The PUC's suspension of direct access prevented such aggregations, prompting the AB 80 carve-out.

The 13.02 MW load cap was reached through negotiation between SCE and Cerritos several years ago due to different interpretations of AB 80, as a means to allow Cerritos to serve an initial

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Amigo to Pay \$15,000 for Failure to Timely Bill Customers, Other Violations

Amigo Energy (Vega Resources LLC) would pay an administrative penalty of \$15,000 under a settlement between the REP and PUCT Staff for violations relating to a host of billing provisions in PURA and the Substantive Rules, occurring in the wake of Amigo's acquisition of part of National Power's book. The stipulation is subject to Commission approval.

Amigo Energy failed to bill certain customers within 30 days of service in June and a portion of July 2008, billed certain customers who switched away from Amigo Energy prior to July 2, 2008 based on incorrect rates, and printed bills that did not match the corresponding Electricity Facts Labels (EFLs).

According to the stipulation, during the mass migration of National Power customers to Amigo Energy, a critical field was left unpopulated when relevant data regarding the former National Power customers was imported into Amigo Energy's system, causing bills not to be generated. Approximately 4,422 customers did not receive a bill for service from Amigo Energy in June 2008. Approximately 1,509 customers did not receive their July 2008 statements from Amigo Energy within 30 days of the provision of service. Customers who switched away from Amigo Energy prior to July 2, 2008 with a final bill generated after such date were incorrectly charged based on the Electricity Facts Label (EFL) in effect at the time the bill was printed (July 3, 2008) rather than the May EFL which was in effect for the usage period.

Specifically, Amigo violated PURA § 17.004(a)(1), Related to Customer Protection Standards, and § 39.101(b)(6), Related to Customer Safeguards; P.U.C. SUBST. R. 25.479, Related to Issuance and Format of Bills; P.U.C. SUBST. R. 25.480, Related to Bill Payment and Adjustments; P.U.C. SUBST. R. 25.475, Related to Information Disclosures to Residential and Small Commercial Customers; and P.U.C. SUBST. R. 25.485, Related to Customer Access and Complaint Handling.

CUB Doubts Higher Discount Rate Will Discourage Supplier Entry Given Size of Illinois Market

The level of a Purchase of Receivables discount rate at the Ameren Illinois utilities is "unlikely" to be the determining factor in a supplier's decision to enter the Illinois residential and small commercial market, the Citizens Utility Board said in reply exceptions at the Illinois Commerce Commission.

A proposed decision would accept CUB's recommended discount rate of 1.63%, which includes a provision to repay customers, with interest, for their upfront payment to fund utility consolidated billing (UCB) and POR implementation. In exceptions, suppliers said such a discount rate would fail to remove barriers to entry, and thus fail to meet legislative goals of extending choice to mass market customers (Matters, 7/16/09).

However, "it is doubtful that the addition of an average \$667,631 (\$566,403 in UCB Start-Up Costs + average interest at 8.45% for 3 years) in cost to enter a potential \$111 million market would cause a crippling effect on [supplier] entry," CUB said of its proposal.

In contrast, CUB contended, "there is simply no record evidence to demonstrate that the level of the discount rate will create a barrier for [supplier] entry."

CUB further argued that "subsidization" of suppliers through utility consolidated billing and POR, "masks the true cost of market entry, thereby encouraging inefficient entry into the market which is problematic."

CPV Dismisses Panda Doubts on CPV Supply Contract Performance

CPV Maryland said a request from Panda-Brandywine for the Maryland PSC to delay the relief requested in CPV's petition for long-term contracts with the utilities is "without basis," arguing that a dispute between Panda-Brandywine and Charles County regarding contractual water rights would not impair CPV's ability to perform under any supply contract.

CPV Maryland has asked the PSC to compel the distribution utilities to contract for the output of a new plant CPV wishes to build in Charles

County, Maryland. However, as only reported in *Matters*, Panda-Brandywine said that the County, due to a development agreement with CPV, is seeking to abrogate Panda's long-standing priority in using treated effluent available from the county, because without limiting Panda's water rights, the county cannot meet the amount contemplated under the development agreement with CPV. The dispute is pending in federal court.

Panda-Brandywine said that if CPV and the county do not receive a favorable ruling from the federal court, there is "substantial" doubt that CPV will be able to secure a treated effluent cooling water source in amounts sufficient to cool the proposed power plant. That, in turn, raises questions about CPV's ability to perform under any long-term supply contract, Panda added, noting that a federal court ruling on the water rights will not be issued until September at the earliest.

CPV responded by saying that it specifically contemplated in its development agreement with Charles County that the amount of treated effluent from the county might not be immediately determined. In such a case, the agreement holds that CPV Maryland and the county "will explore other alternatives" with CPV retaining the exclusive right to determine if any such alternative is acceptable. However, while the agreement contemplates exploration of alternatives, CPV Maryland did not expound as to whether any viable alternatives exist to the treated effluent from the county which is currently subject to litigation.

Monitoring Analytics Rebukes Dayton Power over Industry Structure

"Dayton Power shows no appreciation for several key facts about the industry in which it operates," particularly the fact that the electric industry is structurally noncompetitive, Monitoring Analytics, PJM's independent market monitor, said in an answer at FERC regarding an Order 719 compliance filing.

In its June comments on the compliance filing (*Matters*, 6/29/09), which includes provisions to limit the role of Monitoring Analytics in various

monitoring functions, Dayton Power opined that, "PJM 'markets' appear to be incrementally edging closer to being merely a collection of prices established largely by regulatory fiat in the form of market structure rules and market mitigation tools."

Dayton Power further argued that, "over and over again, the main parameters that establish price are either administratively established, or are subject to pervasive offer capping, or both." This "approach," Dayton Power concluded, "bears no resemblance to a free market."

Monitoring Analytics took square aim at those comments in an answer at FERC, in which it mainly defended its earlier plan to maintain the status quo regarding PJM market monitoring as established in a prior settlement.

"Dayton Power shows no appreciation for several key facts about the industry in which it operates, namely, that it is structurally noncompetitive [sic], that the role of demand in price formation is severely undeveloped, and, most importantly, it is subject to regulation by multiple authorities both to ensure just and reasonable pricing and a high standard for reliability," Monitoring Analytics said.

"There is no 'free market' solution that, if unleashed, would allow us to bypass these fundamental challenges. All of the administrative rules, including mitigation, about which Dayton Power complains relate directly to realities that are not going to change and cannot be ignored," Monitoring Analytics added.

Briefly:

PUCT Approves Amended Certificate Recognizing Milagro Power as new Owner of TexRep3

The PUCT approved an amendment to the REP certificate of TexRep3 to recognize the change in ownership from Energy Services Group to start-up Milagro Power Company (Only in *Matters*, 6/8/09). Milagro Power President William Wydler currently runs a group of companies under the Milagro name which were initially formed in the year 2000 with the purpose of providing services to the Hispanic Community of America. Among them is Plaza Milagro, which is an exchange providing home owners with a one-stop shop for professionals in the

fields of real estate, home financing, home building, home protection, and home ownership.

ERCOT Reports on Costs for Broadcasting Public Meetings

Broadcasting all ERCOT "public meetings" as defined in statute via the internet will cost about \$191,000 to \$305,000 annually, ERCOT said in a PUCT filing. Recent legislation requires all public meetings subject to Section 39.1511 of PURA to be broadcast online for free. ERCOT said that definition includes non-executive-session portions of its board meetings, board Q&A sessions, and board committee meetings (such as Finance & Audit, H.R. & Governance, etc.). Technical Advisory Committee meetings and its subcommittee meetings do not fall within the statutory definition of public meetings subject to Section 39.1511 of PURA, ERCOT said, as no board member currently sits on any of the TAC committees.

Muirfield Energy Seeks Ohio Broker Licenses

Start-up broker Muirfield Energy is seeking electric and natural gas aggregation/broker licenses in Ohio, and has already started operations in New York, New Jersey (gas only) and Pennsylvania. Muirfield President Perry Oman spent four years as senior manager for Direct Energy Business in Ohio. In addition, Oman also managed Direct Energy's New York State commercial and industrial electric and natural gas efforts in 2007 and 2008. Prior to Direct Energy, Oman spent four years as general manager of commercial energy sales at Hess Corporation. Muirfield is seeking authority to broker non-residential customers in all applicable electric utility and LDC territories. Muirfield says it intends to contact small and mid-sized businesses via door to door prospecting.

First Choice Energy Seeks Conn. Aggregation License

First Choice Energy LLC applied for a Connecticut electric aggregator license to pool non-residential customers. The broker serves customers throughout New England as well as New York. First Choice Energy said it has brokered for Constellation NewEnergy, ConEdison Solutions, Glacial Energy, Spark

Energy, Hess, and TransCanada.

Legacy Energy Solutions Announces Name Change to Acclaim Energy

As first reported by *Matters* several months ago, Houston-based Legacy Energy Solutions has announced its name change to Acclaim Energy Advisors, prompted by a name conflict (*Matters*, 5/21/09). Acclaim, which has expanded beyond its Texas base, said it has experienced a 15 percent growth in sales staff in order to help capture increased interest in its service offerings due to rising demand.

Viridity Energy Teams with Siemens to Bid Controllable Load into Markets

Demand response provider and smart grid developer Viridity Energy has entered into a strategic relationship with Siemens Energy to provide virtual power plant functionality on campus environments and to other large users of electricity. Viridity will couple Siemens' DEMS (decentralized energy management system) with its VPower system for forecasting and optimization to deliver solutions and services for the management and bidding of controllable load and customer-owned generation and storage resources into energy markets, including capacity, day-ahead, real-time and ancillary markets. Siemens' DEMS provides a software engine to model the available resources, forecast usage, balance load and energy resources in real-time, optimize demand capacity available, and integrate with energy market systems for bidding. The system can be implemented locally or as a remotely hosted service. Viridity said that the Viridity-Siemens solution allows customers to integrate their micro-generation and controllable load into the smart grid on the same basis as traditional generation.

Ontario Energy Board Releases Updated Regulated Price Plan Manual

The Ontario Energy Board issued a revised Regulated Price Plan Manual that incorporates changes to the time-of-use periods announced in May, and references to econometric modeling in relation to the setting of time-of-use prices (*Matters*, 5/14/09).

Database ... from 1

critical care customers (Only in Matters, 7/16/09).

A hard disconnect combined with the bill payment database will lower bad debt and allow REPs to offer lower rates to customers, Gateway said, while also streamlining the switching process by eliminating the lag in having the customer submit 12-month payment history, and possibly removing the need for a deposit.

Cerritos ... from 1

amount of customers without the need for time consuming litigation. However, as Cerritos has reached the load limit and wishes to serve more customers, it has asked the PUC to interpret AB 80, and whether the bill, as Cerritos suggests, allows it to provide opt-in, direct access service to an unlimited amount of customers, whom Cerritos is free to choose.

SCE, however, said that the load cap is appropriate because AB 80 was not designed to create unfettered load aggregations. Instead, it was developed because several cities had invested in the Magnolia Power Plant, but those cities likely would have withdrawn from the project (delaying its operations needed to help reliability) due to the suspension of direct access and the inability to serve retail customers with their generation entitlements. AB 80, SCE argued, was meant as a limited exemption, with any load served by a city tied to the city's entitlement in the power plant.

"A complete exemption from [direct access] suspension would place [Magnolia Power Plant] participants in an extremely advantaged position as compared to other providers with pre-suspension [direct access] arrangements," SCE contended.

While other alternative providers are only permitted to compete for load that was shopping when direct access was suspended, removing the load cap from Cerritos' aggregation would give Cerritos a "significant advantage," SCE said, because Cerritos could enroll customers who were not shopping at the time of the suspension, and who are otherwise ineligible to purchase supplies from any other competitive provider.

AB 80 did not create such an advantage for Cerritos and similar cities, SCE insisted. "Indeed, Cerritos and other proponents touted AB 80 as being equitable specifically because it would 'place Cerritos and [other MPP participants] in the same position as other pre-suspension DA arrangements.'" In other words, SCE said, proponents claimed that AB 80 would provide Magnolia Power Plant participants the same rights they would have had if they had been serving load with their Magnolia Power Plant output prior to the direct access suspension - not more rights.

Furthermore, SCE noted that Cerritos' interpretation of AB 80 would permit it to "cherry-pick" customers (perhaps not serving residential customers), unlike community choice aggregators under AB 117 which must serve all classes.

To the extent the PUC rules AB 80 does not require a load cap, SCE argued that the Commission must consider whether AB 80 requires Cerritos to offer service to all customers in its jurisdiction, since AB 80 expressly provides that Cerritos may serve as a community aggregator, "on behalf of all retail end-use customers within its jurisdiction."

SCE also asked that the Commission rule on whether Cerritos is subject to the same requirements as community choice aggregators and electric service providers for purposes of participating in the RPS program.