Energy Choice Matters

August 14, 2009

PUCT Denies Turner Petition for Termination Fee Waivers

The PUCT denied the amended petition of Rep. Sylvester Turner and several consumer groups, which had sought a waiver of termination fees through the end of the summer, citing legal questions about the Commission's authority as well as policy concerns.

Citing Travelers' Ins. Co. v. Marshall, 1934, Chairman Barry Smitherman agreed that under the Texas Constitution the state cannot enact laws that impair specific contractual provisions. While Travelers' has been refined in subsequent decisions, especially with respect to laws that only incidentally affect contracts, Smitherman said that Travelers' still applies in terms of legislation (or agency action) designed to abrogate a specific term of a contract.

Commissioner Donna Nelson said any order waiving termination fees would be dangerous from a policy standpoint, creating uncertainty and discouraging REPs from offering fixed price contracts.

Accordingly, the Commission denied the amended petition, which also would have required REPs to send out additional notices regarding the Lite-Up Texas program.

Commissioners also reported that Staff is pursuing allegations that over a dozen REPs have not complied with the levelized billing requirements in the Substantive Rules (Only in Matters, 7/30/09). Nelson put REPs on notice that the Commission was denying the amended petition because it believes that the current customer protections are adequate. To the extent REPs are not adhering to those requirements, the Commission will take proper enforcement measures, Nelson said.

The Commission also dismissed any notion that the current levelized billing rule is unclear that average payment plans must be available to any mass market customer not currently in arrears.

While some REPs have cited a passage in the preamble of Project 27084, which implemented

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National Grid Says Mass. Supplier Referral Plan With Specific Offers Would Cost $2+ Million

Implementing a supplier referral program that would include specific rate offers communicated through utility interactive voice response (IVR) systems and utility bill inserts would entail costs in the range of $690,000 to over $2 million, utilities said in interrogatory responses at the Massachusetts DPU.

Utilities, which favor a referral program that would only provide customers with a supplier list and not specific offers, were directed to provide costs estimates for various incremental system and customer service costs that would be required if a proposal offered by several suppliers, similar to the Connecticut referral program, were adopted (Only in Matters, 7/28/09).

National Grid's estimates came in at the highest. Grid reported that training additional customer service reps to handle a projected 10% increase in call volume under the Supplier's referral program would cost $2 million annually. Grid also said that it believes a program manger to coordinate various aspects of the referral program would be required at a cost of $45,000 to $55,000 per year.

Incremental bill insert costs, which would vary on the length of referral materials, range from $8,500 to $142,000 per issuance, Grid said. Grid was unable to estimate the costs of modifying its IVR system to accommodate specific supplier offers at this time (though it has contacted its vendor

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SEMCO, Suppliers Reach Settlement on Curtailment Issues

SEMCO Energy Gas Company, the Retail Energy Supply Association, Constellation NewEnergy-Gas Division, and Michigan PSC Staff have agreed to a settlement that would allow SEMCO to implement several proposed tariff changes relating to curtailment of gas service, modification of transportation balancing, and associated pipeline penalties (U-15953, Only in Matters, 4/28/09).

Under the stipulation, SEMCO would add to its M.P.S.C. and Battle Creek Division tariffs new Rule C5.13, which holds that SEMCO may apply curtailment priorities to customers behind an affected receipt or delivery facility for situations in which the rated capacity of a SEMCO supply receipt facility, or a supply delivery facility owned by an upstream pipeline or storage provider, has been exceeded or is likely to be exceeded on a given day. Shippers will be notified of a gate station constraint in accordance with the requirements for issuance of an Interruptible Balancing Restriction.

Additionally, during periods in which SEMCO applies its curtailment priorities under rule C5.13, shippers affected by the curtailment may be removed from their respective balancing pool and may be required to balance as an individual shipper. Shippers affected by a gate station constraint will be notified of their removal from the balancing pool 24 hours prior to the gas day for which the gate station constraint is in effect. The notice will be posted on SEMCO's electronic bulletin board.

SEMCO would also add a rule which clarifies that pipeline penalties caused by actions attributable to one or more shippers may be directly assessed by SEMCO to those shippers.

As part of the settlement, SEMCO agreed to modify its transportation confirmation process to follow the procedures below:

- SEMCO will actively confirm Start of Day, on-time nomination cycles
- The nominations will continue to be due to the Company at 12:30 PM ECT, via the Natural Noms system. The 12:30 PM ECT nomination deadline is the same as the pipeline requirement. This will be applicable for Gas Days Tuesday through Saturday
- SEMCO will not actively confirm Start of Day nominations which are due to the pipeline on non-work days/after-hours (Gas Days Sunday through Monday and holidays). Nominations for Start of Day will be required to be input into Natural Noms in accordance with the pipeline deadlines. The Passive status on the pipelines will provide automatic acceptance of the nomination(s).
- All intra-day nominations will be handled via the Passive confirmation status of the Company's gate stations on Panhandle, Great Lakes, ANR Pipeline and Northern Natural. The Passive status on the pipelines will provide automatic acceptance of the nomination(s).
- Suppliers/pool managers will input nominations into Natural Noms for weekends and holidays in accordance with the pipeline deadlines.
- Over-delivery of supply to the Company's city gates will be allocated prorata to suppliers/pool managers.

Finally, SEMCO agrees under the stipulation that it will not propose to revise its transportation balancing tolerances and associated balancing charges/penalties, which currently exist in its tariffs, without giving notice to RESA and Constellation.

PUCT Wants to Hear from Non-Signatories to Nodal Fee NUS

The PUCT will hear from stakeholders that are not parties to a non-unanimous stipulation regarding the ERCOT nodal surcharge on August 19, the originally scheduled hearing date before the NUS was filed, to hear why the majority of parties in the case have not signed onto the settlement.

As only reported by *Matters*, the nodal fee would remain at $0.169/MWh for the rest of 2009 and increase to $0.375/MWh effective January 1, 2010, under the stipulation signed by PUCT Staff, ERCOT, the Alliance for Retail Markets, Texas Competitive Power Advocates, Austin Energy, the PSEG Companies, and South Texas Electric Cooperative (Matters, 8/5/09).

Chairman Barry Smitherman noted his curiosity, if not concern, that the number of signatories to nodal fee settlements has been decreasing over time. Smitherman cited Luminant's absence from the settlement as particularly surprising.

Commissioner Kenneth Anderson noted more than half of the intervenors in the case are not signatories, and that had the case been a rate case, he wouldn't consider the NUS to be a settlement and would want to hold an evidentiary hearing.

Smitherman said he was "uncomfortable" having a small number of signatories and a large number of non-signatories, noting that the record is very thin outside of testimony from ERCOT. The record does not contain much insight into what other parties think.

Generators Protest MISO Proposal to Shift Interconnection Costs from Load to Developers

Predictably, most generation developers opposed a proposal from the Midwest ISO to end the subsidization of network interconnection costs by load in the local pricing zone by shifting all costs (or nearly all for 345+ kV projects) to the interconnecting generators. Most load representatives, as well as several transmission owners, welcomed MISO's interim reforms.

MISO's proposed cost allocation changes were first reported by *Matters* (Matters, 7/10/09). Currently, for generation interconnection projects meeting the Regional Expansion Criteria and Benefits (RECB) test, generators pay half of the costs, while the remaining cost is paid by load, with cost sharing among loads based on the voltage of the line. For 345+ kV projects, 20% of load's share of interconnection costs is socialized across the MISO market, while the remaining 80% is paid by the pricing zone in which the interconnection is located. This cost allocation method, MISO says, is inequitable to low-load pricing zones in the western parts of MISO, where thousands of megawatts of mostly wind resources are seeking interconnection to serve eastern loads. While native load in these pricing zones will see minimal benefits from the new resources and their network upgrades, the current allocation formula deems them beneficiaries and would assign them the bulk of load's share of interconnection costs.

MISO has said that without its proposed reforms, several utilities will likely exit the RTO due to astronomical increases in transmission costs caused by the current interconnection cost allocation formula.

As an interim replacement, MISO proposed assigning 90% of network interconnection costs for 345+ kV projects to generators, with 10% socialized on a postage stamp basis. Interconnection projects under 345 kV would be paid for entirely by developers.

The American Wind Energy Association and Wind on the Wires called MISO's proposal unduly discriminatory to generators, who would have to bear all of the costs for network upgrades for generator interconnection, "even though those upgrades have a clear benefit to load (i.e., transmission owners)."

Renewable Energy Systems Americas and Invenergy Wind Development agreed that MISO's solution, "entirely ignores the significant benefits that load receives from such development, including the ability to meet renewable portfolio standard ('RPS') requirements, energy diversity, reduced emissions and lower wholesale prices."

Reciting an argument raised by several developers, NextEra Energy Resources, Iberdrola Renewables and several other generators told FERC that MISO's proposal, "would materially increase the cost on developers of wind energy projects in the Midwest ISO."

"As a result, many wind energy projects may no longer be viable for development because the shifting in network upgrade costs to a new project requires investment in transmission assets that may never be recoverable; financial markets today treat network upgrades costs paid by a generation developer as an equity contribution and as non-financable," NextEra said.

The "sole objective of the Proposal is to tend to the needs of the transmission sector in order to maintain their current regional transmission organization ('RTO') membership," NextEra added.

However, the PSEG Companies countered that full network interconnection cost allocation to generators would have many benefits.

"First, it ensures that the interconnection process does not interfere with competitive electricity markets by either favoring one form of generation over another or favoring one location for siting over another. Second, such an approach is consistent with the goal of shifting risk away from customers and to merchant developers by ensuring that all customers do not take the risk of siting decisions of generators and merchant transmission entities, but rather places such risk on the interconnection applicant. In addition, such a pricing mechanism does not hide the true costs of supply but provides transparency to the interconnection costs of each applicant and provides transparency to applicants on costs of siting in different areas and as a result imposes discipline on the interconnection process," PSEG said.

Detroit Edison agreed that MISO's proposal, "ensures that the most direct beneficiaries of Network Upgrades necessitated by the generator's interconnection (i.e., the Interconnection Customer and the load it serves) will pay for such Network Upgrades." Consumers Energy likewise supported MISO's proposal, except that Consumers would apply the modifications to all transmission zones, rather than maintaining the unique cost allocation at ITC/ATC as MISO recommends. Alliant Energy concurred that MISO's filing recognizes that, "Network Upgrades needed for a specific generator interconnection mostly benefit the Interconnection Customer and the load to be served by the interconnecting generator."

The Organization of MISO States and Minnesota PUC also supported MISO's proposal, at least as an interim fix.

Montana-Dakota Utilities, which joined MISO's original petition and is one of the utilities currently evaluating leaving the RTO, cited the recent opinion from the United States Court of Appeals for the 7th Circuit which remanded to FERC cost socialization of PJM transmission upgrades. Montana-Dakota Utilities noted that the Court held that FERC is "not authorized" to allow pricing, "that requires a group of utilities to pay for facilities from which its members derive no benefits, or benefits that are trivial in relation to the costs sought to be shifted to its members," which is what will occur absent a change to MISO's interconnection cost formula.

The Illinois Commerce Commission, the principal driver in appealing PJM's cost socialization to the 7th Circuit, raised numerous concerns with MISO's interim proposal, but nevertheless, "believes that the Midwest ISO must uphold a cost causation and beneficiary pays approach to cost allocation."

"Deviating from the long-held caselaw precedent to achieve certain perceived desired policy outcomes that chooses winners and losers within the footprint is a path to be avoided. In that light, the ICC considers the current Midwest ISO proposal to be, at best, a short-term practice and urges the Commission to stress the importance of the Phase II work to which the Midwest ISO has committed," the ICC added.

While MISO's proposal may be "the least objectionable option from a host of objectionable options available," the ICC said that the solution is not optimal because it will likely discourage the development of new generation, and provides existing generation with an advantage over new generators.

Generators, such as Renewable Energy Systems Americas, were quick to call MISO's proposal inconsistent with FERC "precedent" regarding remote generation interconnection in the Southwest Power Pool and the California ISO, where load is recognized as receiving benefits from renewables and pays a larger share of interconnection costs. The Commission, however, has equal precedent supporting the diverse and unique nature of RTOs and allowing RTOs to develop their own just and reasonable policies (e.g. the existence of forward capacity markets in some RTOs while other resource adequacy approaches are used in others; different approaches to socialization of reliability network upgrades, etc.)

Indeed, as quick as RES and others were to argue that MISO must follow the SPP/CAISO example on interconnection costs, they said MISO should not follow the precedent set at FERC for the PJM and New York ISO markets, where interconnection customers must bear costs of any upgrades that would not have been built "but for" the interconnection request. RES noted that PJM and NYISO do not have as much remote load or locationally constrained resources as MISO does, making MISO more similar to SPP/CAISO.

Aside from their broad objections, generators argued that, if FERC agrees an interim solution is required, it should be narrowly tailored to apply only to the Otter Tail and Montana-Dakota Utilities pricing zones, rather than the majority of MISO. Alternatively, if low-load pricing zones in western MISO are entitled to relief, the relief should come by making eastern loads pay more interconnection costs through a postage stamp rate, rather than assigning nearly all interconnection costs directly to developers, generators said.

Integrys Energy Group agreed that the current interconnection cost formula is, "premised on inadequate and erroneous suppositions regarding the identification of the parties who actually benefit from the network upgrades, [resulting] in skewed and unfair payment liabilities." However, MISO's solution is just as problematic, Integrys said.

Rather than adopt MISO's proposal, Integrys suggested that FERC could prevent an exodus from MISO by either declaring the current cost allocation to be unreasonable, or by requiring MISO to uplift through postage stamp socialization network upgrade costs that exceed a threshold amount within the "source" pricing zone, on a temporary basis.

"Midwest ISO's filing prematurely gives the back of the hand to a 100% postage stamp cost allocation, which is clearly superior to the 'generator-pay-all' (or nearly all) method Midwest ISO espouses. Integrys does not seek a postage stamp allocation at this time since the RECB stakeholder process has yet to be conducted, and that process may reveal infirmities in the postage stamp method or may reveal that the postage stamp method may not be superior to an alternative method developed through the stakeholder process ... Unlike the generator-pay-all method, the postage stamp method purports to identify the full societal benefit of siting generation remotely from load centers," Integrys noted.

Briefly:

PPL Procurement Results for Early 2011 Approved

PPL Electric Utilities' first default service solicitation for the first five months of 2011 produced a winning price of $88.60 per megawatt-hour for residential customers and $90.31 per megawatt-hour for small- and mid-sized business customers. The procurement was for 16.875 percent of the load-following electricity supply for those customer classes for the period Jan. 1, 2011 to May 31, 2011. Fourteen suppliers participated in the auction. PPL also procured, for residential customers, a five-month block of 50 megawatts of round-the-clock energy supply for January through May 2011 at a price of $57.15 per megawatt-hour. Capacity and other charges are not included in the price for the 50-MW energy block, with such remaining requirements to be procured separately from the PJM market. In comparison, the average full requirements price from five solicitations for 2010 default service (staggered since 2007) is $102.98/MWh for residential customers and $103.84/MWh for small commercial customers. A final procurement for 2010 supplies will be conducted in October.

Pa. ALJ Recommends Denying Industrials' Objections to Met-Ed/Penelec Transmission Charges

A Pennsylvania ALJ would dismiss complaints regarding Met-Ed and Penelec's 2008 annual transmission service charge (TSC) filings, finding that, among other things, costs from transmission marginal loss pricing are appropriately included in the transmission rates. Several industrial customers had argued that marginal losses were generation costs, subject to the restructuring rate cap, and ineligible for recovery through the transmission service charge. However, in a recommended decision, an ALJ found that marginal losses are clearly transmission costs and appropriately included in the transmission service charge. The ALJ also recommended that the PUC dismiss industrials' argument that Met-Ed and Penelec generation rates should be revised to remove the "average loss component" to preclude double-recovery of losses from ratepayers. There is no evidence in the record that Met-Ed/Penelec are recovering any transmission-related costs through generation rates, the ALJ said. The Commission should also reject industrials' motion for an independent audit of congestion costs, as the ALJ found no evidence that FirstEnergy Solutions has selected delivery points to the detriment of Met-Ed/Penelec or their customers.

Champion Energy Services Now Listed on ElectricChoiceforTexas.com

ElectricChoiceforTexas.com, owned by WhiteFence, said that Champion Energy Services has been added to the available providers offering electricity on its site.

PUCT Refers Texas Utility Solutions Case to SOAH

The PUCT referred the petition of Texas Utility Solutions for a declaratory order regarding its eligibility as a transmission service customer to the State Office Of Administrative Hearings (Matters, 8/10/08).

Acclaim Names Bonnie Ernst Midwest Director

Acclaim Energy Advisors named Bonnie Ernst as director, principal consultant for the Midwest region, as part of Acclaim's expansion to Midwest markets from its Texas base. Ernst most recently served as the senior group manager for resource conservation at PepsiCo.

MXenergy Holdings Further Extends Exchange Offer Deadline

MXenergy Holdings again extended the expiration of its Exchange Offer and Consent Solicitation (until midnight August 15) of its outstanding Floating Rate Senior Notes due 2011 (Matters, 7/2/09).

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the current levelized billing rule, Smitherman noted that none of the present Commissioners were on the Commission when the preamble was written and have never opined on it. The passage in question holds:

"The commission agrees with the REP Coalition that it is reasonable to allow the REPs to establish their own specific criteria for participation in level and average billing plans, provided they comply with the minimum requirements in §25.480(h)."

Commissioner Kenneth Anderson stressed the importance of the comma in the cited passage, noting that the preamble holds that any levelized plan offered must still comply with the minimum requirements in §25.480(h), which requires the plan to be available to any customer current in their electric charges.

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for an estimate), and also could not provide a cost estimate for any website changes, if needed.

Nstar projected incremental start-up costs of up to $690,000, as follows:

IVR Upgrade

Initial Set Up (one time)	$ 700
Annual Maintenance	$ 1,700
Warm Transfer	$0.05/Minute
93,000 7-minute calls	$32,550
Total Cost	**$34,950**

Customer Service Staffing and Training

Incremental staffing to handle additional work:

3 FTE's	$303,600
Training (one time)	$ 30,000
Total Cost	**$333,600**

Manage and Implement Program

Incremental staffing to handle additional work:

.5 FTE	$74,000

Working Group

Incremental staffing to handle additional work:

.5 FTE (one time)	$74,000

Bill Stuffer Costs

Development Cost	$4,300
Bill Stuffer Cost Range*	$11,000-$33,000
Total Bill Stuffer Cost Range	**$15,300-$37,300**

* $11k is single panel, $33 is triple panel

Bill Stuffer Postage Cost

Estimated # of Customers (1,100,000)	$137,500
Postage per piece for over 1 oz	$0.125
Total Cost	**$137,500**

Bill messages would not include any costs if a single message directing customers to a website listing supplier offers was used. Nstar said that adding informational content to its website does not include an incremental cost, but creating an interactive application interfacing with other customer systems or requiring detailed programming would require the use of an outside contractor, with cost depending on the specific parameters of the application.

Western Massachusetts Electric Company reported that the cost to record a message on its IVR is $50 per page per recording. Typically, scripts are generally lengthy and are usually two pages, bringing the cost to $100 per recording. The initial set up on the IVR takes approximately 8 hours of work, with the monthly updates of prices estimated to take 1.5 hours per month. WMECO noted that at affiliate Connecticut Light & Power, a customer calling CL&P uses an 800 number, and remains connected to the 800 number while talking to the supplier under the referral program, at a cost of 1.9¢ per minute.

WMECO reported that any referral program bill insert with specific offers would likely be a trifold insert, at a cost of $3,500, not including any additional staffing which may be required.

WMECO said that when CL&P first piloted the Connecticut referral program on May 31, 2006, only one supplier was participating. In the first four months, 10,005 customers were provided supplier option information. Of those customers, 3,960 expressed an interest in obtaining generation service from the participating supplier. There were 691 (6.9%) customers transferred to the supplier. Of that number 139 or 1.4% actually enrolled with the supplier, WMECO said (not including any pending enrollments). Additionally, 264 customers transferred to the supplier from the IVR. Currently, CL&P has four suppliers participating in the program.

"WMECO believes that any referral program in Massachusetts should be implemented on a small scale and developed to gauge customer interest while balancing implementation costs. We base this on the fact that during the first four months of the CL&P program, of the approximately 10,000 customers (only 1% of CL&P's customer base) that were provided with program information, only 4% (403) have actually enrolled with a supplier. This is an initial indicator of light residential customer interest in the program," WMECO said.

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