Energy Choice Matters

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Pactiv Seeks Relief from Higher RG&E Nonbypassable Charge for Migrated Customers

Pactiv Corp. filed a complaint at the New York PSC requesting that Rochester Gas & Electric mitigate the impact of the recently increased nonbypassable charge on customers on competitive supply in addition to mitigating the impact on customers taking RG&E's fixed price option. In the alternative, Pactiv moved for reconsideration of the Commission's order increasing the nonbypassable charges so that customer on competitive supply receive the same relief granted to fixed-price bundled service customers.

As only reported by *Matters*, the PSC approved an interim adjustment to the nonbypassable charges due to large under-recoveries caused by the drop in market prices. The nonbypassable charges recover various legacy electric supply costs, including payments to qualifying facilities and costs to operate retained hydro units (Matters, 5/19/09).

In approving an adjustment to the nonbypassable charges, which are typically fixed for a year, the PSC ordered that Asset Sale Gain Account credits owed to customers shall be used to mitigate the nonbypassable charge increase for customers on the utility fixed price option. Customers on variable pricing do not require mitigation as they are paying lower supply costs, the PSC said.

Pactiv, which makes Hefty-brand consumer products, currently buys electricity supply on a fixed price contract with Suez Energy Resources NA. Accordingly, RG&E did not apply Asset Sale Gain Account credits to Pactiv's account when it started billing the higher nonbypassable charges.

Pactiv argued that customers on competitive supply stand to suffer the same economic injury as RG&E's fixed price option customers, and are entitled to equal relief from the increase in nonbypassable charges. "There is no reasonable basis to treat the FPO customers differently from

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FirstEnergy ATSI PJM Integration Plan Follows Duquesne Example on Capacity

FirstEnergy Corp. has proposed to integrate the capacity requirements of its American Transmission Systems Inc. (ATSI) service area into PJM in a two-step approach similar to the mechanism used in the Duquesne Light settlement, as detailed in FirstEnergy's formal filing at FERC to remove its Ohio and Penn Power loads from the Midwest ISO and move those loads to PJM.

FirstEnergy is seeking a June 1, 2011 integration date with PJM for its ATSI subsidiaries. However, Reliability Pricing Model auctions for the 2011-12 and 2012-13 delivery years already have occurred without the ATSI load.

Accordingly, similar to the process now underway at Duquesne Light, FirstEnergy proposed meeting those loads' capacity requirements for 2011-12 and 2012-13 delivery years under an out-of-time Fixed Resource Requirement (FRR) integration plan. FirstEnergy said that the plan was developed in consultation with PJM and the independent market monitor, and that neither had any objections.

Under the FRR plan, the ATSI utilities would obtain through integration auctions firm capacity from qualified capacity resources in an amount equal to the forecast pool requirements of the ATSI zone for the 2011-12 and 2012-13 delivery years. LSEs may opt out upon meeting the requirements

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UI Posts Last Resort Rates

United Illuminating posted Last Resort Service rates for the three-month period beginning October 1.

Applies to Rates GST, LPT*, & NUS

Month	On-Peak Rate ¢/kWh	Off-Peak Rate ¢/kWh
October 09	7.8062	7.0682
November 09	8.6439	7.7457
December 09	10.0647	8.2219

*Rate LPT Shoulder & Off-peak price is the same

Mich. Utilities Seek to Limit Retail Customer Participation in RTO Markets Pending Rules

Several Michigan distribution utilities have asked the Michigan PSC to temporarily restrict the participation of Michigan retail customers in RTO wholesale markets until the Commission makes a determination on licensing, rules, and regulations necessary for the direct participation of Michigan retail customers in an RTO wholesale market (U-16020).

Detroit Edison, Indiana Michigan Power (AEP) and the Michigan Electric and Gas Association requested that the Commission initiate an investigation into the rules and regulations governing the direct participation of Michigan retail customers in an RTO wholesale electric market, including those customers who choose to participate in conjunction with Aggregators of Retail Customers, and those who act as Load Modifying Resource Market Participants.

Until the Commission issues an order on such licensing or regulations, the utilities sought to limit aggregation of retail customers for RTO wholesale market participation to the Load Serving Entity supplying electricity to the particular end user.

The utilities said that Load Modifying Resources and Aggregators of Retail Customers, "could create conflicts with existing demand response programs and have unintended detrimental financial consequences for non-participating retail customers."

Absent defined rules and regulations for demand response activity from Load Modifying Resources and Aggregators of Retail Customers, an LSE's ability to forecast energy and capacity requirements could be jeopardized, the utilities claimed.

"LSE's serving distribution customers need to be aware of when demand response events are scheduled and implemented, to be able to properly manage distribution load from a real time reliability perspective. Further, North American Electric Reliability Standards MOD-019-0 and MOD-020-0 require that each LSE shall make known its forecast and amount of interruptible demand and direct control management to transmission operators and reliability coordinators. These requirements necessitate defined rules and regulations regarding LMR MPs and ARCs demand response activity," the utilities said.

Consumers Energy Reaches 10% Choice Cap

Consumers Energy has reached the 10% cap on choice sales, the Michigan Customer Choice Coalition said yesterday. Migration was about 3% a year ago. Detroit Edison migration is still around 3.5%.

Sen. Wayne Kuipers, R-Holland, urged fellow lawmakers to act quickly to raise the cap. The Grand Rapids Area Chamber of Commerce also urged its members to contact lawmakers to raise the cap.

Competitive supply has been made more attractive due to falling wholesale prices and a new bypassable renewable energy charge added to utility bills.

As only reported by *Matters*, Consumers Energy has filed to reduce the bypassable renewable charge imposed on non-residential customers by placing more costs on the residential class (Matters, 8/12/09).

Overall electric rates are also higher due to interim delivery rate increases self-implemented by the utilities, with bundled and retail access customers subject to differing delivery charges (retail access customers pay no residential subsidy).

Energy optimization (energy efficiency) charges have also led to higher bills, but the charges are mostly nonbypassable.

Md. OPC Says PSC Must Consult AG on Customer Lists

The Maryland Office of People's Counsel said that the PSC is required to consult with the Consumer Protection Division of the Office of Attorney General prior to acting on Baltimore Gas & Electric's customer list proposal, which OPC opposes (Matters, 8/17/09).

OPC cited Section 7-507(o) of the PUC Article which holds that, "The Commission shall consult with the Consumer Protection Division of the Office of the Attorney General before issuing regulations designed to protect consumers." OPC argued that the General Assembly "certainly envisioned" consultation with the Consumer Protection Division regarding regulations "designed to protect consumers," and that the PSC, "should not consider a proposal that diminishes protections for consumers," without such consultation.

BGE, OPC added, "should not be permitted to circumvent the rulemaking process," by proposing a utility-specific provision for customer lists when the issue was dropped from the republished rules under RM 17. While the PSC has allowed customer lists in the past, OPC noted such lists only contained a customer's name, address and telephone number.

BGE's proposal, OPC said, includes account numbers, rate classes, and most significantly, historical usage for the past twelve months, which OPC called, "tantamount to an invasion of privacy to obtain information that utilities have been required to keep secure from all other entities, including OPC and government agencies, without affirmative consent from the customer."

ERCOT Says Shell SPS Wind Dispatch Proposal Unworkable

ERCOT opposed a special protection scheme (SPS) suggested by Shell WindEnergy as an alternative to security constrained economic dispatch as a means of managing Competitive Renewable Energy Zone congestion.

Shell is among those arguing for some form of priority dispatch for early-movers in CREZ development. An SPS is a, "protective relay system specially designed to detect abnormal system conditions and take pre-planned corrective action," to return the system to acceptable performance.

Under Shell's proposal, wind generation already existing on the ERCOT system would continue to operate without an SPS, as would generation that has posted collateral for a nominated project, or, if no collateral is required, a developer whose financial commitment is listed in the final order in Docket No. 33672.

A wind developer that has not posted collateral or whose financial commitment was not listed in the final order in Docket No. 33672, but intends to access CREZ facilities, would only be able to interconnect to the grid subject to an SPS, Shell said. The wind SPS would provide that in the event of congestion caused by excessive wind generation, the "late-arriving" generating unit subject to the SPS would automatically be the first to reduce output to prevent overloading the system.

However, ERCOT said that SPSs are not intended to manage reliability limits on a network basis, as proposed in Shell's SPS proposal, because the dynamic nature of a network precludes the ability of an SPS, which is based on a static set of generating units, to resolve network congestion with any appreciable degree of certainty, because the relationship that enables the effectiveness of a typical SPS is lost if applied to network congestion. SPSs, ERCOT said, involve discrete generating units and transmission elements, with those specific units' well-defined, isolated relationship enabling the SPS to resolve the post-contingency overload on a specific element.

Under security constrained economic dispatch in the nodal market, ERCOT explained that, due to the dynamic nature of network congestion, the same generator, or set of generators, will not always be the appropriate solution to resolve network congestion from one operating interval to the next.

In short, ERCOT said that under Shell's proposal, the shift factors of the curtailed non-priority generators may not resolve network congestion, because those units may not have a significant impact on the congested facilities.

ERCOT further said that if Shell's SPS trips significant amounts of generation off-line, it could create system frequency issues that could negatively impact system stability, requiring inefficient and costly deployment of ancillary services not required but for the SPS.

CPS Energy reiterated its opposition to giving one generation unit preferential dispatch treatment over another in the absence of reliability concerns. "The arguments made in support of dispatch priority are self-serving and poor market design," CPS said.

CPS further argued that, "[t]he evidence on the ground does not support dispatch priority proponents either."

"With no dispatch priority mechanism in place the Central CREZ are developing fully. The coastal areas of Texas have no CREZ, no one is talking about the need for dispatch priority and those areas are seeing significant wind development," CPS noted.

"CPS Energy disagrees with the need for Dispatch Priority as an [sic] cure for negative prices. The driver behind the negative prices is twofold: the production tax credit, and the renewable energy credit. Both of these are incentives for the development of wind. To take these benefits and then demand a new administrative mechanism to push prices up - artificially - harms consumers unnecessarily ... to the wind developers' benefit."

NYISO Files Tariff Change to Improve Real-Time CCGT Dispatch

The New York ISO submitted tariff revisions at FERC to improve the ability of the Real Time Commitment software to recognize the physical characteristics of combined cycle gas turbines, which will result in more efficient real-time dispatch of CCGTs. By adding more economic CCGTs to real-time dispatch, NYISO projects an $8 million annual reduction in real-time energy production costs.

A CCGT committed in real time requires a minimum of two hours of running time in order to avoid the potential for stress on the equipment. However, the Real Time Commitment software currently does not recognize or evaluate minimum run times greater than one hour. As a result, CCGT owners wishing to offer in real time must currently incorporate the costs of running for the two-hour period into their first-hour bids, and then bid as price takers for the second hour. The practice may make the units appear artificially uneconomic in the first hour.

The tariff changes extend the minim run time evaluation for CCGTs in the real-time market to two hours while simultaneously requiring CCGT offers for two-hour time horizons. The NYISO also proposed to change its Hour Ahead Market software to prohibit the owner of a CCGT which elects to be evaluated in the real-time market with a two-hour minimum timeframe from increasing the bid already submitted for the second hour of a two-hour bid, since the Hour Ahead Market does not currently lock bids for periods greater than one hour. CCGT owners will be permitted to decrease their bid for the second hour.

Briefly:

Conn. Supplier Meeting “Tremendous Success”

DPUC Chairman Kevin DelGobbo said dialogue at an electric supplier marketing technical conference was a “tremendous success,” but added that the recent growth in supplier activity and migration, “requires a heightened sense of honesty and disclosure by the retailers to protect and preserve the good will this [choice] program currently has with our state's citizens.” As only reported by *Matters*, the DPUC instituted the technical conference to review marketing practices, with Connecticut Light and Power recommending stricter disclosures (Matters, 8/13/09). After the session, DelGobbo said that, “the DPUC has a more complete understanding of industry concerns and retail suppliers have a better understanding of their need to be honest, fair and ethical in their sales practices.”

Energy International Power Marketing to Withdraw Illinois Electric License

Energy International Power Marketing filed to withdraw its Illinois alternative retail electric supplier license, stating it has never served customers since receiving its license in March of last year.

MXenergy Amends Exchange Offer

MXenergy Holdings has amended its pending

Exchange Offer and Consent Solicitation of its outstanding Floating Rate Senior Notes due 2011 to, among other things, increase from $393.33 principal amount to $426.96 principal amount the new 13.25% Senior Subordinated Secured Notes due 2014 being issued. The amendment also increases from 188.91 shares of newly created Class A common stock of the Company, par value $0.01 per share, to 213.75 shares of Class A Exchange Common Stock being issued in the Exchange Offer. With the amendments, MXenergy extended the early consent deadline to August 28, and the expiration date to midnight August 29. The exchange offer is integral to a restructuring plan at MXenergy (Matters, 7/2/09).

DPUC Issues Declaratory Order Affirming Billing Error Statute

The Connecticut DPUC affirmed its earlier interpretation of Conn. Gen. Stat. §16-259a (billing errors), set forth in the Connecticut Light and Power and Connecticut Natural Gas billing decisions, in a declaratory order published yesterday (Matters, 7/1/09). The DPUC's affirmed interpretation holds that while suppliers and utilities have a 12-month deadline to identify any billing error, the statute does not impose a time limit over which any corrected charges must be collected. With the Department issuing a declaratory order, the Connecticut Office of Consumer Counsel, which had twice sought relief regarding the interpretation in the courts but was denied on procedural grounds, has now exhausted its options under the administrative process and can again seek relief from the courts.

PUCT Staff Posts Wind Reliability Workshop Agenda

PUCT Staff posted an agenda for an Aug. 20 workshop on market and operating issues related to wind generating capacity in ERCOT under Project 37339. Topics include identification of challenges to reliability, reliability tools, incentives to implement such tools, and cost allocation.

FERC Approves Constellation-TRE Settlement

FERC accepted a settlement under which Constellation Energy Commodities Group will pay $5,000 to resolve a dispute with the Texas Regional Entity regarding CECG's registration on the NERC compliance registry as a Generator Operator due to a tolling agreement with Power Resources, which owns a 212-MW, gas-fired, combined cycle generator in Howard County, Texas (Only in Matters, 5/5/09). Constellation, which acts as the plant's QSE, neither admits nor denies that the circumstances of the case constitute a violation, while TRE will rescind the Initial Notice of Alleged Violation.

FERC Approves Duquesne UCAP Waiver

FERC approved a limited waiver requested by PJM that will allow loads in the Duquesne Light zone to use locational unforced capacity (UCAP) to meet their capacity needs for the 2011-12 delivery year, as part of the capacity plan Duquesne will be required to file under the settlement agreement that saw Duquesne remain a PJM member (Matters, 6/24/09).

RG&E ... *from 1*

the fixed-price customers of electric suppliers other than RGE under the rationale in May 18 Order," Pactiv said.

"Pactiv entered into a fixed-price contract with Suez Energy relying upon the assumption that the NBC set for the calendar year would remain unchanged pursuant to the methodology set forth in the NYSEG and RGE Commodity Orders," the manufacturer added.

In Pactiv's case, the nonbypassable charge went from a credit of 1.786¢/kWh to a charge of 0.674¢/kWh, an increase of 2.46¢/kWh. Pactiv's Canandaigua facility currently consumes nearly 95 million kWh annually, meaning the increased nonbypassable charge results in a $1.3 million hike in electric costs for the rest of 2009.

Pactiv said it does not anticipate any opposition to the relief it seeks.

ATSI ... *from 1*

of the PJM Reliability Assurance Agreement, and such load will not be included in the integration auctions.

Loads not opting out must purchase their capacity from the ATSI utilities, in the amount equal to their capacity obligations, priced at the integration auction clearing price (adjusted to incorporate the cost of any bilateral contracts executed by ATSI if needed to supplement the auction).

The integration auctions will follow the process used for RPM's incremental auctions, and will be held no later than April 2010. ATSI may conduct separate but simultaneous auctions for the 2011-12 and 2012-13 requirements.

FirstEnergy Solutions will bid 100% of its capacity located in the ATSI zone not otherwise committed by contract into the integration auctions, with such capacity bid at no greater than the market seller offer cap.

ATSI asked that the deadline for filing the FRR plan be extended to December 15, 2010.

So that ATSI load may be included in the RPM auction starting with the 2013-14 delivery year (whose capacity is procured through the May 2010 auction), ATSI asked that FERC rule on its application by December 17, 2009, so ATSI load can be committed to RPM by February 2010 as required under the tariff.

ATSI also asked that it not be required to pay for PJM Regional Transmission Expansion Planning (RTEP) costs for projects approved prior to its integration date, since, under MISO's similar transmission construction cost sharing arrangement, it will be obligated to continue to pay for costs incurred prior to its exit date. Under PJM's tariff, regional RTEP cost sharing is reset annually, and new members are assigned a share of existing project costs, while exiting members may avoid costs upon exit.

However, FirstEnergy argued that PJM's policy serves as a disincentive to RTO membership, as new entrants are faced with paying for previously approved projects, while exiting members can escape cost responsibility. In light of the fact that it must continue to pay MISO regional transmission costs for reliability projects approved before June 1, 2011, ATSI asked that its RTEP obligation in PJM only include projects approved after June 1, 2011.

Among other things, FirstEnergy said that integrating the ATSI load into PJM will reduce congestion. According to a model run by PJM, the integration would reduce annual system production costs across both PJM and MISO by $26 million, and would reduce total annual congestion costs across both RTOs by $91 million.

FirstEnergy also said PJM's forward capacity market, which MISO does not have, is needed to promote reliability under a retail choice model, because divested generating resources no longer have an obligation to serve.

"[W]ithout appropriate price signals regarding available revenue streams, generation can and will exit the market and impair reliability," FirstEnergy said.

RPM addresses this problem, FirstEnergy claimed. Furthermore, RPM promotes efficient allocation of responsibilities in a retail choice environment because under the RPM program, capacity obligations follow load on a daily basis, FirstEnergy added. In other words, in PJM's system, monthly bills are based on load data that is updated daily. By automatically and immediately reflecting changes in an LSE's level of customer load being served, PJM provides clear financial outcomes to LSEs and their customers, FirstEnergy said.

RPM also allows customers to offer demand response and energy efficiency into the capacity market, FirstEnergy added.

Aside from FirstEnergy Solutions' more than 10,000 MW in the ATSI zone that would benefit from the RPM market under the proposed move, FirstEnergy said an additional 2,150 MW of unaffiliated generation is located in ATSI (owned by RRI Energy, International Power, and others).