Energy Choice Matters

August 19, 2009

Met-Ed/Penelec Default Service Pact Includes 25% Block/Spot Residential Carve-Out, POR

One quarter of residential requirements at Met-Ed and Penelec would be served through block purchases with spot balancing, while a 10% spot market provision would be added to commercial procurement, under a settlement among parties to Met-Ed and Penelec's default service procurement plan for the period January 1, 2011 through May 31, 2013. As only reported in *Matters*, two issues -- the imposition of an auction load cap and the use of legacy non-utility generation supplies -- were not settled and are subject to litigation (Matters, 8/1/09).

Under the settlement, residential customers will be served on 100% full requirements contracts for a five-month interim period from January 1 to May 31, 2011, procured through a descending clock auction. Starting June 1, 2011, residential supply will be split between full requirements contracts and a portfolio of term block purchases and spot adjustments. After June 1, 2011, 75% of residential supplies will be served on full requirements contracts procured through 10 separate descending clock auctions for 12- or 24-month terms, anywhere from 3 to 13 months before delivery.

The remaining 25% of supply will be sourced through RFPs for block energy products, balanced by spot purchases or sales. Block energy products will be purchased in twelve-month strips of on-peak and off-peak blocks twice each year, with suppliers required to deliver the purchased energy to the applicable PJM zone for each utility. Of the 25% carve-out, the utilities will target meeting 80% of the on-peak and off-peak residential monthly megawatt-hours (i.e., 20% of overall residential supply requirements) through block purchases, with the remainder procured through the PJM real-time energy market at real-time spot market prices. In January 2010, Met-Ed and Penelec will also solicit a 50 MW around-the-clock block energy product for residential customers with a term

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Draft Illinois Procurement Plan Maintains Current Laddering, Proposes Load Response Carve-Out

The Illinois Power Agency recommended a continuation of the current laddered approach to default service procurement, under which about one-third of requirements is purchased annually, because the laddered RFP will provide the highest probability of cost stability and at-the-market prices for electricity, the IPA said in filing its draft 2010-2015 procurement plan.

Consistent with last year's plan, the IPA said that the lowest price risk scenario is achieved when the portfolio is procured relatively evenly over three years, which the IPA said is the current period for which there is sufficient liquidity in wholesale energy markets. Accordingly, the IPA proposed to procure:

- 35% of projected energy needs two years in advance of the year of delivery;
- 35% of projected energy needs one year in advance of delivery, and
- 30% of projected energy needs in the year in which power is to be delivered.

The IPA's spring solicitation will continue to procure monthly on-peak and off-peak standard wholesale block energy products (or their equivalent volumes in seasonal or varietal strips).

The IPA affirmed that power market trading volumes for periods greater than three years into the future are presently insufficient to assure that the observed prices are available, reliable, and

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CL&P Posts Last Resort Rates

Connecticut Light and Power has posted Last Resort Service rates for the three-month period beginning October 1.

Last Resort Service (¢/kWh)

	GSC Rate	FMCC-Generation Rate	Total Generation Supply
Rates 21, 39, 41, 55, 56, 57, 58			
Oct.	7.257	0.450	**7.707**
Nov.	8.075	0.450	**8.525**
Dec.	9.271	0.450	**9.721**

Rates are for customers in listed classes with demands above or equal to 500 kW. Wholesale bids did not produce any peak/off-peak differential for applicable rates.

Dismissal of Texas Wind Reactive Power Complaint Denied

An ALJ has denied ERCOT's petition to dismiss a complaint from several wind generators regarding reactive power requirements, finding that the complaint is not moot despite ERCOT's withdrawal, on procedural grounds, of a prior Protocol Clarification/Interpretation. The ALJ unabated the docket and directed parties to propose a joint procedural schedule (36482).

The case dates back to a November Protocol Clarification/Interpretation issued by ERCOT, in which ERCOT said that the Protocols require a generator to have and maintain a Unit Reactive Limit (URL) with a power factor capability of +/- 0.95 at all levels of generation. In response, several wind generators filed a complaint regarding that interpretation at the Commission, arguing that the Protocols hold that the minimum reactive capability is determined in proportion to the real power output of a generator.

ERCOT subsequently withdrew its Protocol interpretation on procedural grounds, as it did not consult with PUCT Staff as required before issuing the interpretation. ERCOT accordingly moved to dismiss the wind generators' complaint as moot. However, ERCOT said that its opinion of the ERCOT Protocol Reactive Power capability requirements is unchanged despite withdrawing its formal interpretation.

That prompted Horizon Wind Energy and Edison Mission Energy to oppose ERCOT's motion to dismiss, arguing that the complaint is not moot so long as ERCOT continues to assert that the "withdrawn" interpretation remains the reactive power standard (Only in Matters, 7/1/09). Horizon and Edison Mission further contended that the case meets the "capable of repetition, yet evading review" exception regarding mootness.

The ALJ agreed. "[T]he Competitive Wind Generators could reasonably expect to be subject to the same interpretation again," since the interpretation was only withdrawn on procedural grounds, the ALJ noted.

"Additionally, ERCOT has not satisfied its burden of showing that the challenged interpretation cannot reasonably be expected to recur," the ALJ said in allowing the complaint to proceed.

MISO Says Locational Component Not Needed in Module E

The Midwest ISO does not believe locational restrictions are needed under its Module E Resource Adequacy Requirements structure, MISO said in a compliance filing at FERC. The Commission had directed MISO to study and report on how congestion in the Transmission Provider Region could limit aggregate deliverability of Planning Resources, and evaluate approaches to congestion and aggregate deliverability that other RTOs have developed.

While MISO studied locational approaches used by ISO New England and the California ISO, it said that its Resource Adequacy construct is based on the premise that a robust transmission system is needed in order to provide LSEs with access to a fleet of resources to meet their planning reserve obligations in a bilateral market. The FERC-approved Loss of Load Expectation study process establishes a MISO-wide Planning Reserve Margin that takes into account transfer limits between Planning Reserve Zones. MISO concluded in its initial Planning Reserve Margin study performed in 2008 (i.e., a failure of the Load Deliverability test) that there were no local reliability problems through 2018. The study is updated annually so that potential problems can be identified with enough lead-time to develop a solution.

Furthermore, the adoption of locationally restricted methodologies would negatively impact MISO's recently developed process of using Planning Resource Credits to meet Resource Adequacy Requirements, MISO said. Planning Resource Credits can be traded amongst LSEs because they have been pre-qualified to meet Module E Resource Adequacy Requirements. Part of that qualification is demonstration of deliverability. Resources associated with Aggregate Planning Resource Credits have gone through and passed the Midwest ISO deliverability test and therefore qualify for Network Resource Interconnection Service without need for further study. The Planning Resource Credits concept provides liquidity and consistency in the capacity product that is used in the Midwest ISO bilateral capacity markets, MISO said.

In contrast, if the Midwest ISO established local capacity requirements, a queue would essentially be created for those local requirements and/or locational prices to be established. Resource designations would have to be evaluated on a first-come, first-served basis to ensure that the local requirements were being followed. Moreover, Planning Resource Credits would have to identify specific resource to load combinations, thus eliminating the flexibility that is inherent and integral to the concept of Planning Resource Credits, MISO noted. Alternatively, locational auctions would have to be conducted to establish eligibility for local provision of Module E obligations. Not only would this create an additional administrative burden, but it also would add uncertainty to the market without improving reliability, MISO reported.

"Another issue with local capacity requirements is that, by themselves, they do not address the system condition that led to the congestion," MISO added. The Midwest ISO Planning Reserve Margin is established such that the Loss of Load Expectation of the system is no more than 1 day in 10 years. If it is determined that there are not sufficient resources and import capability into a zone to meet the 1 day in 10 years Loss of Load Expectation criteria, simply setting a higher reserve margin for loads in that zone will neither improve reliability nor aggregate deliverability, MISO said.

MISO reported that there was also "little support" in stakeholder discussions for adopting one of the local capacity requirements used by the other referenced RTOs as a means to improve reliability and maintain aggregate deliverability.

CPV Maryland Defends "Undeniable" Benefits from St. Charles Contract

CPV Maryland strained to justify its proposal to compel the Maryland utilities to enter into a long-term contract with its St. Charles facility, asserting that its plant's benefits are "undeniable" despite universal stakeholder opposition to CPV's proposed unilateral contracting process (Case 9117).

CPV seized upon support from the Office of People's Counsel and Maryland Energy Administration (MEA) for a long-term contracting process in general, even though both entities preferred a competitive solicitation to source generation instead of CPV's unilateral negotiations. CPV also claimed that despite fuel costs being passed through to ratepayers through a "transparent" index, its long-term contracts would still serve as a hedge against market volatility.

CPV also clarified that the capacity price for the St. Charles plant would be executed prior to construction, and that CPV would be responsible for cost overruns. Ratepayers would receive revenues from ancillary services.

The Maryland Energy Group (MEG), composed of industrials, opposed a recommendation from MEA, which was only reported in *Matters'* comprehensive coverage last week. In recommending a competitive process to expeditiously procure long-term contracts, MEA said that any long-term contract should be treated as a "distribution asset" paid for by all ratepayers on a nonbypassable basis.

MEG protested that recommendation on the grounds that large customers are not requesting that their default service be supplied through bilateral contracts, nor has any party supporting a portfolio approach suggested that it be used for any other customer class other than residential or Type I customers. MEG said that any new power plant built under a ratepayer backed arrangement would likely increase rates (or at best have an immeasurable benefit to large customers) while imposing additional costs on them. Regardless, imposing such costs on customers who not purchase Standard Offer Service would be impermissible under statute, MEG argued.

FERC Sets Effective Date for RCST Rates, Orders Refunds

The Reliability Capacity Services Tariff (RCST) rates in the California ISO were "legally fixed" upon the issuance of FERC's February 13, 2007 Order on Paper Hearing, when the Commission determined that the formula RCST rates filed with the Commission were just and reasonable, FERC held in an order on remand. The RCST was meant to replace the must-offer obligation (EL05-146-008).

The Commission reasoned that since the February 2007 order approved the specific RCST capacity payment rate formulas and cost allocation methodologies, parties could thus, "supply their own inputs to the formula and thereby know the numerical rates," charged.

The remand order results from an appeal of FERC's original February 2007 order, which found the RCST rates to be just and reasonable, but made them effective June 1, 2006. An appeals court determined that the "plain text" of the Federal Power Act prohibits the Commission from setting rates retroactively in cases governed by the section 206(a) complaint procedure (as was the case here). In other words, FERC could not make the RCST rates effective prior to finding them to be just and reasonable in its February 2007 order. The Court left FERC to determine whether under the FPA the rates became effective on February 13, 2007, or on the date of a subsequent compliance filing, or on some other date.

FERC held that as the February order contained specific formulas and cost allocation methodologies that permitted parties to calculate the applicable rates, the RCST rates became effective February 13, 2007.

Accordingly, the Commission ordered sellers of eligible capacity to refund, with interest, any RCST revenues collected pursuant to the February 13, 2007 Order on Paper Hearing, for the period June 1, 2006, to February 13, 2007.

Briefly:

Dominion Retail Offering Electricity to Duke Ohio Customers

Dominion Retail is offering a fixed price of 6.88¢/kWh through the December 2010 meter read date to residential (RS) customers at Duke Energy. Dominion Retail's offer ends on Sept. 30, 2009, and is limited to the first 25,000 customers who enroll. The price is 20% off Duke's average price to compare for RS customers. Dominion Retail is soliciting customers via a mailer and reply card. There are no other residential offers in the territory, or residential offers in other service areas, according to the Public Utilities Commission of Ohio (though residential load is migrating as part of various governmental aggregations).

Horizon and its Principals to Pay $500,000 to Settle Delaware Complaints

Horizon Power and Light will pay $100,000 to settle Delaware complaints regarding contracts that had a fixed rate through May 31 regardless of enrollment date, which customers believed (and alleged were marketed as) 12-month fixed products (Matters, 8/6/09). Additionally, two of Horizon's principals, Neil Leibman and Tom O'Leary, will pay an additional $400,000 combined. The settlement was approved by the PSC yesterday. PSC Staff has said that customers must receive 30 days notice before any rate change. The payment will be used to refund affected customers, though it will not cover the entire difference between their initial rate and modified rate. Horizon will also relinquish its Delaware electric supplier license under the stipulation. Its approximately 1,100 remaining customers will be returned to default service by mid-October, if they do not switch to another supplier. Washington Gas Energy Services is the only active residential supplier remaining in Delaware. Horizon does not admit wrongdoing under the stipulation.

Energy Cooperative of New York Seeks Pa. License

New York ESCO Energy Cooperative of New York has applied for a Pennsylvania electric supplier license as a broker/marketer and aggregator, to supply all sizes of non-residential customers in the PPL territory. ECNY said Fluent Energy would handle EDI responsibilities as well as other scheduling and backoffice services.

Md. PSC, NJ BPU Appeal Denial of RPM Transitional Auction Complaint

The Maryland PSC and New Jersey Board of Public Utilities have appealed FERC's denial of the RPM Buyers' complaint regarding PJM's transitional auctions under the RPM capacity market to the United States Court of Appeals for the Fourth Circuit (Matters, 9/22/08).

Detroit Edison Issues Renewable RFP

Detroit Edison issued an RFP for long-term agreements totaling 106 MW for the purchase of capacity, energy and renewable energy credits from Michigan-based renewable sources. Detroit Ed expects to sign multiple 20-year PPAs under the RFP. Responses are due October 23. Detroit Ed is also seeking potential partners for the development of a Michigan-based wind farm (or farms) capable of producing up to 75 MW, to be operational by December 31, 2011. Detroit Edison would take ownership after completion.

First Solar Inks PPA with SCE

Southern California Edison and First Solar have entered into PPAs for the output of two large-scale solar power projects totaling 550 MW in Riverside and San Bernardino counties in Southern California. Completion is expected in 2015.

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of 48 months for delivery beginning June 2011, which shall be included in the amount of energy to be served by block energy products for purposes of calculating the 80% target.

The residential class shall include all customers served under Rate Schedules RS and RT as well as GS customers served under the Special Provision for Volunteer Fire Company and Non-Profit Ambulance Service, Rescue Squad and Senior Center Service.

For the commercial class, the settlement adjusts Met-Ed/Penelec's original proposal by adding a 10% spot provision to procurements, which was not present in the original plan. For the initial five months of 2011, 100% of supplies will be served on five-month full requirements contracts. Starting June 1, 2011, one-year full requirements contracts will be used to meet all of the class's supply needs. However, the full requirements contracts will include a fixed price for only 90% of the supply established through a series of descending clock auctions, with a variable price for the remaining 10% of the supply, which will be priced at the hourly real-time PJM zonal price, plus an adder to cover renewable compliance costs, ancillaries, capacity, and other costs required for delivery. Procurements will follow the schedule used for residential auctions, but contracts will only be for 12 months, with no 24-month tranches.

The commercial class customers, which are generally those served at secondary voltage, have monthly billing demands of less than 400 kW. The group shall include customers served under Rate Schedules GS-Small, GS-Medium, Borderline, MS (Met-Ed), Outdoor Lighting Service, Street Lighting Service (STLT, Met-Ed), Ornamental Street Lighting Service (Met-Ed), High Pressure Sodium Vapor Street Lighting Service (Penelec), Municipal Street Lighting Service (Penelec), and Rate H (Penelec).

Industrial customer default service will be an Hourly Pricing Service priced to the PJM real-time hourly market and procured through three descending clock auctions held on the same day as the commercial auctions. Additionally, Met-Ed and Penelec will each offer industrials an optional one-year fixed price service for the year 2011 only. Customer participation on the fixed rate will be capped at 50 MW at each company. Industrial customers will be permitted to leave the optional fixed product for competitive supply before the 12-month term expires.

The industrial class shall include customers that either: (a) are served at secondary voltage on GS-Large and have billing demands that equal or exceed 400 kW in two consecutive months; or (b) are served at primary or transmission voltage under Rate Schedules GS-

Large, GP, TP (Met-Ed), and LP (Penelec).

Met-Ed and Penelec will change the basic default service rates on a quarterly basis for residential and commercial customers. Hourly priced service for large commercial and industrial customers will be billed on a monthly basis with various components of the Hourly Pricing Service Charges changing on a quarterly basis.

The Price to Compare ($PTC_{Default}$ for non-hourly customers) will include the cost of energy and capacity, transmission, and ancillaries. Met-Ed and Penelec will discontinue the current generation charges and Transmission Service Charge Rider. Retail rates will not include declining blocks, demand charges or similar elements.

Met-Ed and Penelec will provide Network Integration Transmission Service (NITS) for default service customers. The NITS charge will be bypassable, and suppliers will be responsible for NITS charges for their customers.

Retail Market Enhancements

The settlement includes various provisions meant to facilitate retail competition -- chief among them the commitment to file a non-recourse Purchase of Receivables plan with no discount. Other mechanics of the program are subject to further discussion and potential litigation if outstanding issues are not resolved (such as accompanying customer protection measures to be included with POR).

The POR program is to be filed by March 31, 2010. POR would be mandatory for suppliers using utility consolidated billing, and would only be available for suppliers using utility consolidated billing. Utility payments to suppliers will be made based on the current amount that is billed to and owed by customers, and will be paid 40 days after invoicing the customer.

Met-Ed and Penelec will also fully unbundle the uncollectible accounts expense associated with default service for residential, commercial and industrial customers. Beginning January 2011, the unbundled uncollectible accounts expense associated with default service and competitive supply service will be removed from distribution rates and recovered through the Default Service Support Rider on a nonbypassable, non-reconcilable basis.

Met-Ed/Penelec will send letters to residential and small commercial customers, with the utility logo prominently displayed, containing specific competitive rate offers to customers. Such supplier referral letters will be sent twice annually starting in 2011, with the content developed and paid for by participating suppliers. The Office of Consumer Advocate and Office of Small Business Advocate will review and approve the letters. Participating suppliers will review and approve the letters that go to their respective customers (but will not be able to disapprove material from other suppliers). Met-Ed and Penelec will contribute a maximum of $2.25 million each for mailing the letters, with suppliers paying any additional costs.

The utilities will also offer rate ready, bill ready, and dual billing capability to suppliers. Suppliers selecting the rate ready option will be initially limited to a flat rate per kWh, and a percentage-off-of the Price to Compare pricing options. Suppliers will not submit more than 200 discrete rates for implementation during each calendar quarter, and the utilities will have no obligation with respect to rates in excess of that amount.

Met-Ed and Penelec will also post updated lists of shopping and non-shopping customers, as well as a supplier specific "Sync List," on the secure portion of the their supplier support web site. Customers will be provided a notice to opt-out of the lists. The first updated customer list shall be available no later than August 31, 2010. The database will be updated quarterly thereafter. No later than August 31, 2010, the utilities will also provide both interval and non-interval consumption information via EDI 867 transactions after receiving written customer authorization from the requesting supplier, or written certification by the supplier that it has such authorization.

Under the stipulation, the utilities will unbundle STLT, Outdoor Lighting Service, and Borderline Service, and allow customers served on those schedules to take service from a competitive supplier. Street Lighting customers that take service from suppliers will be settled against a standard street lighting load profile and not a commercial customer profile.

An ombudsman for supplier issues will also be created.

Non-solar alternative energy portfolio standard costs related to the supply served on full requirements contracts will be the responsibility of the wholesale suppliers. For the residential load not served on full requirements service, Met-Ed and Penelec will conduct an RFP for Tier I and Tier II RECs.

A separate solar RFP will seek solar RECs for 10 years for both default service and shopping customers. A nonbypassable rider will recover such solar compliance costs, except industrial customers generating their own solar RECs may avoid the rider.

Administrative costs other than those directly assigned or included in the solar rider will be bypassable and charged only to default service customers.

A nonbypassable Default Service Support Rider will recover deferred transmission costs dating back to 2006, default service uncollectibles, and costs of various retail market enhancements (customer lists, data access, etc.). The transmission components of the rider will not apply to any customer who shopped for the entire period from January 1, 2005 through December 31, 2010.

The settlement was signed by Met-Ed/Penelec, the Office of Consumer Advocate, the Office of Small Business Advocate, the Retail Energy Supply Association, Direct Energy Services, Dominion Retail, FirstEnergy Solutions, Constellation NewEnergy, two large industrial coalitions, and several other parties.

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representative.

Among several changes versus last year's plan is that the IPA is proposing to hold a second RFP for a 500 MW carve-out for demand response resources. While the IPA will continue to buy the bulk of monthly requirements, and RECs, in the spring, the IPA proposed that a solicitation would be conducted in the fall of 2010 for demand response resources as an alternative to traditional capacity options for the utilities. The IPA recommended that the initial demand response procurement seek bids in a total volume not to exceed a maximum contract volume basis of 500 megawatts in any given month, with demand response offers required to extend over a five year period from the time of first contract obligation or delivery.

The IPA also proposed consolidating the previously split REC solicitations for Ameren and Commonwealth Edison under a single procurement event to simplify the bidding environment while drawing greater levels of competition from providers of renewable energy resources.

Furthermore, the IPA recommended against over-subscribing the portfolio's summer peak volumes. The 2008 and 2009 planning cycles considered the practice of over-subscription as a measure to mitigate market price risk associated with weather-related price (and commensurate volume) spikes during summer periods. Based on an analysis of the results of this approach for the July and August periods of 2008 and 2009, the IPA now recommends that hedging at 100% of expected peak energy requirements for the July and August periods is both reasonable and advisable.

Pre-existing contracts are already in place at both Ameren and ComEd, both related to purchases under rate relief legislation, and from last year's initial laddered procurement. Aside from last year's procurement, Ameren currently has 1,000 MW of Around-The-Clock energy supplies under a five-year swap contract expiring December 31, 2012. ComEd has swaps totaling 3,000 MW of Around-The-Clock energy through May 31, 2013.