

Energy Choice

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BidURenergy.com Launching Widespread Mass Marketing Campaign

BidURenergy.com, the online broker owned by Energy Curtailment Specialists, is launching a "widespread" marketing effort as it prepares for its September 4th official launch, including a dedicated mass marketing campaign targeting residential and small volume customers (Matters, 5/27/09).

BidURenergy's broad-based marketing will include a variety of forms, including sports team sponsorships (including the Buffalo Bills), a "significant" internet-based marketing effort, commercials (with some limited television), direct mailing, and various networking with local trade associations, ECS CEO Glen Smith told *Matters*. The initial focus will be on New York.

BidURenergy will also roll out an affinity program which will compensate customers for referrals.

The move represents a growth in BidURenergy.com's focus to include more mass market brokering. When first developing BidURenergy, ECS initially planned on focusing solely on the commercial and industrial market. However, by the time an official announcement of the new service was made in May, ECS modified its plan to include a limited focus on residential customers. That focus has since grown, prompting the mass marketing effort.

Smith said supplier demand, as well as the low incremental costs to add residential service to its platform, prompted the decision. Commercial and industrial sales will still be the primary focus of BidURenergy, however.

Similar to other online residential brokering sites, mostly in Texas, BidURenergy will post

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Pa. LDC Price to Compare Should Include Gas Cost Adjustment, NEM Says

The Price to Compare charged to bundled natural gas customers in Pennsylvania should include the Gas Cost Adjustment, or E-factor, in determining the price, the National Energy Marketers Association said in comments on a rulemaking to eliminate additional barriers to retail competition.

In March, the PUC opened a rulemaking to, among other things, examine issues including a change to monthly instead of quarterly Purchased Gas Cost adjustments, Purchase of Receivables, and capacity release (Matters, 3/27/09).

NEM said that the current migration riders are confusing to customers, and that customers would benefit from including the E-factor in the Price to Compare. The E-factor is a mechanism by which the utility recovers the under/over collection from its forecasted Gas Cost Recovery (GCR) rate. Because the utility is permitted to charge interest on the under-collections, and the utility is charged a percentage penalty for over-collections, there exists a "significant incentive" for the utility to underestimate its GCR rate, NEM said.

Large E-factor rates, some more than 20% of the gas cost rate, remove significant portions of the cost of commodity service from the Price to Compare, which creates the misconception that competitive offers are more expensive than artificially understated LDC rates, NEM noted. Including the E-factor in the Price to Compare would give customers a more accurate basis to make rate

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FERC Sets ISO-NE Capacity Imports Complaint for Hearing

Despite "poorly supported" complaints, FERC ruled that a public hearing shall be held concerning the intent ISO New England capacity importers behind their high-priced offers (EL09-47).

Two complaints were filed by the Connecticut Attorney General and other Connecticut agencies originally alleging that various capacity suppliers using the Northern New York AC Interface failed to deliver when called by ISO New England, based on erroneous information filed by the ISO at FERC. The ISO later said that no suppliers failed to meet an obligation.

An amended complaint from the Connecticut load representatives alleged that, regardless of whether the capacity importers met dispatch instructions, their high-priced offers were designed to avoid dispatch, and thus suppliers collected capacity payments with no intention of providing energy (Matters, 5/29/09, 4/23/09). The amended complaint alleged that Brookfield Energy Marketing Inc., H.Q. Energy Services (U.S.) Inc., and Constellation Energy Commodities Group engaged in such a high-offer strategy, based on the Connecticut parties' information and belief that the suppliers import capacity over the Northern New York AC Interface. The Connecticut parties also named other unidentified parties in the complaint, as ISO New England had not yet identified all of the capacity resources using the interface as requested by the parties. The Connecticut representatives later filed a notice of withdrawal of the complaint as it relates to HQUS.

In ordering hearings, FERC said that, "The complainants have provided little evidence in support of these allegations."

"Typically, the Commission looks with disfavor on poorly supported complaints. We are mindful, however, of the unique history of the allegations regarding the capacity importers' bidding strategy raised in the complaint, including the inconsistency in the ISO-NE's position regarding these allegations. Because of this unique history, we will in this instance set the complaint for trial-type evidentiary hearing before an administrative law judge," the Commission said.

At hearing, the complainants must meet the

burdens typically imposed on complainants, FERC added. FERC also consolidated two dockets under which the complaints were separately filed.

The complaint hearings, however, will not address the Connecticut parties' calls to change the market monitoring structure in ISO New England, as the Commission said such issues will be addressed in the ISO's Order 719 compliance filing. The Connecticut representatives have not raised a reasonable doubt that the existing tariff provisions for market monitoring are unreasonable, FERC added. The Connecticut parties have urged FERC to require the ISO to grant the external monitor greater authority.

Reliant, ARM Suggest Changes to New Certification Form

The content of REP customer notices regarding cessation of operations should be listed in the Substantive Rules and not the new REP certification form, Reliant Energy Retail Services and the Alliance for Retail Markets said in comments on the proposed new form (37053).

Part E-1 of the proposed form includes a list of requirements to be included in such cessation notices, such as date of exit, contact information, and arrangements to transfer customers to another REP. Reliant and ARM said that such required content is more appropriately included in PUC Subst. R. §25.107, since REPs look to Commission rules for guidance in developing notices.

If the Commission elects to keep the required content in the certification form, ARM and Reliant suggested several changes. Among them is striking the requirement that the exiting REP inform the customer in the advance notice of the name and contact information of the POLR, which ARM and Reliant noted cannot be known by the REP ahead of time due to the random assignment process. Reliant and ARM also recommended striking language requiring the notice to state that "customer choice still remains," as the language is unclear. If the Commission wishes the notice to inform customers that they may choose a different provider, and direct customers to Power to Choose, the requirement should be explicit,

Reliant and ARM said.

Reliant and ARM also offered clarifying language holding that the REP must only file with the Commission a standardized notice of cessation of operations that is sent to all customers. The proposed form, as written, could be interpreted as requiring the REP to file a copy of every single notice sent to each specific customer with the PUCT, Reliant and ARM said.

Reliant and ARM also recommended a change regarding the identification of "principals or permanent employees in managerial positions" who previously worked for a REP that experienced a mass POLR transition. As written, the proposed form would require identification of any permanent employee who managed a failed REP, not just a permanent employee in a managerial position, and regardless of whether the employee is being used to meet the Substantive Rules' managerial qualifications, ARM and Reliant said, which would place a burdensome requirement on REPs.

DPUC to Review Public Power & Utility Bonding Compliance

The Connecticut DPUC re-opened Public Power & Utility's licensing docket to determine whether PP&U is in compliance with the bond or other security requirements in accordance with Conn. Gen. Stat. §16-245(c) and Conn. Agencies Regs. §§16-245-3 and 16-245.

Subsection (a) of Section 16-245-4 requires an electric supplier to provide and maintain security in the amount of \$250,000 or five percent of the supplier's estimated gross receipts for the first full year of operation. However, such security shall be subject to annual adjustment, and the Department may require, pursuant to Section 16-245-4(b), an increase in the amount of security if the electric supplier's annual gross receipts increase more than ten percent from the gross receipts amount previously used by the Department to determine the level of security required.

Under Conn. Agencies Regs. §16-245-3(c), any electric supplier who elects to maintain security based on its gross receipt is required to submit to the Department, no later than October 15 of each year, the amount of the supplier's

gross receipts from the sale of electric generation services in the previous twelve months as well as the estimate of the expected electric generation load to be served by the supplier in the next twelve months.

On October 25, 2007, PP&U elected to maintain security based on its estimated gross receipts and posted a Letter of Credit in the amount of \$20,000. The DPUC said that since October 25, 2007, PP&U has not submitted to the Department any updated information regarding PP&U's actual and estimated gross receipts as required under Conn. Agencies Regs. §16-245-3(c). By letter dated July 10, 2009, the Department said it ordered PP&U to submit the required information and supporting documentation by July 17, 2009. To date, PP&U has not complied with the Department's request, the DPUC said in its order.

DPUC Opens Review to Ease Supplier Reporting Requirement

The Connecticut DPUC formally re-opened every supplier license docket to review the quarterly reporting requirement regarding rates, terms, and environmental information contained in each license order (Matters, 8/7/09).

"As a result of the economic climate combined with an effort to alleviate an administrative burden on the Companies, the Department has determined it appropriate to consider changing the timing of the filing of the [statutory] information from quarterly to annually."

Specifically, the Department currently requires quarterly supplier reports of the information contained in Conn. Gen. Stat. § 16-245p(b). Such information includes: (1) rates and charges; (2) applicable terms and conditions of a contract for electric generation services; (3) data regarding the fuel type of generation and emissions; and (4) a record of customer complaints.

WPTF Again Protests CAISO Plan to Not Enforce All Constraints

The Western Power Trading Forum again protested the California ISO's application at FERC in which CAISO seeks to clarify tariff language regarding the role of the Full Network

Model (FNM), and that the CAISO does not enforce all transmission constraints in the Full Network Model. The proposal to not enforce all constraints was previously made in a complaint filing, which WPTF similarly opposed (Matters, 4/14/09).

WPTF continues to assert that CAISO has not shared the requisite information regarding its constraints proposal to allow market participants to understand the changes that the modifications will have on the markets.

"WPTF cannot merely consent to the Commission granting the CAISO the clarification it seeks without first understanding the scope, nature and market consequences of not enforcing all FNM constraints."

CAISO has pointed to the Business Practice Manual (BPM) for Managing the Full Network Model, which notes that certain transmission facilities lack sufficient telemetry to provide accurate data for market dispatch and pricing purposes. Regular enforcement of constraints on these facilities in the market optimizations may lead to spurious congestion or infeasible schedules, the manual says.

According to the BPM, CAISO therefore generally does not enforce constraints on the facilities where there is not sufficient telemetry and visibility. "This applies to many facilities below 115 kV and to a small number of facilities at 115 kV, but does not apply to any of the facilities above 115 kV ... The CAISO Operating Procedures list the set of below-115 kV constraints that it will enforce regularly in the markets, as well as the limited set of 115 kV constraints it will not enforce regularly in the markets," the BPM says.

WPTF noted that the referenced CAISO operating procedures which list the set of below-115 kV constraints that the CAISO will enforce, and the set of 115 kV constraints that the CAISO will not enforce, are not publicly available.

"Consequently, market participants cannot know or even estimate the effects that a failure to enforce these constraints may have on CAISO market prices," WPTF said.

Furthermore, to the extent that CAISO was not enforcing the cited constraints, "it is and was not complying with its filed tariff," WPTF said, as existing tariff language requires the CAISO to enforce all constraints in the Full Network Model.

WPTF said that FERC should develop transparency into CAISO's proposal by: (1) rejecting CAISO's proposal; (2) directing CAISO to develop OASIS reports indicating the constraints that the CAISO determines it will not enforce in the day-ahead market; (3) directing CAISO to develop a report of the constraints that were not enforced in real time, as well as the transfer limits that were used for each constraint; (4) directing CAISO to fully discuss with stakeholders the implications of not enforcing those constraints, (5) directing CAISO to provide details regarding what nomogram and operating constraints are not included in the network model and when such will be included; and (6) directing CAISO to re-file its tariff change request and the full supporting information once (2) through (5) have been completed.

Briefly:

Early Bird Power Seeks Ohio Electric/Gas Licenses

Early Bird Power applied for an electric broker/aggregator license and natural gas broker license at the Public Utilities Commission of Ohio. Early Bird is seeking to serve non-residential customers at all of the eligible utilities/LDCs. Currently Early Bird has 23 clients at Nstar and National Grid, and is working with new clients in Illinois, Rhode Island, and New Jersey as well. The average size of its customer is 2,500 therms/month.

Patriot Energy Group Seeking Ohio Electric License

Patriot Energy Group applied for an electric broker/aggregator license at the Public Utilities Commission of Ohio to serve non-residential customers at all eligible utilities.

Employers' Energy Alliance of Pa. Seeks Expedited Action on Electric License

The Employers' Energy Alliance of Pennsylvania asked the Pennsylvania PUC to reconsider a secretarial letter extending the deadline for consideration of the company's electric supplier license application (Only in Matters, 7/29/09). The Commission routinely extends the deadline for electric and natural gas supplier applications.

The Employers' Energy Alliance of Pennsylvania is seeking approval of its application at the August 27 public meeting so that it can be certified by September 4 in order to meet a PPL EDI testing deadline. The supplier said that meeting PPL's deadline is "critical" to being qualified to serve customers in PPL as of January 1, 2010. The Employers' Energy Alliance of Pennsylvania will serve as the supplier for members of the Erie-based Manufacturer & Business Association.

Conn. OCC Appeals Billing Errors Statute Ruling

As expected, the Connecticut Office of Consumer Counsel has appealed to Superior Court (New Britain district) the DPUC's declaratory ruling affirming the Department's interpretation of Conn. Gen. Stat. §16-259a (billing errors). As only reported by *Matters*, the DPUC has held that the statute does not limit the period of time over which billing corrections may be collected -- only the time over which errors may be discovered (*Matters*, 8/18/09). The OCC argues that the statute places a limit on the time which load serving entities have to both discover and collect billing errors.

Consumers Favors Interim Suspension of Customer Participation in MISO Markets

Consumers Energy filed comments in support of a petition from several Michigan electric utilities to temporarily restrict the participation of Michigan customers in the Midwest ISO's wholesale markets until the Commission issues a final order on a requested investigation into the appropriate licensing rules and regulations that may be necessary for retail customers to participate in the MISO wholesale markets as demand side resources (Only in *Matters*, 8/18/09). Until such an order, 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.

Enserco to pay \$1.4 Million FERC Fine

FERC accepted a stipulation under which Enserco Energy (a subsidiary of Black Hills Corporation) will pay a civil penalty of \$1.4 million for self-reported violations of the

Commission's open access transportation program, including circumventing the competitive bidding requirements for long-term, discounted rate capacity releases (flipping) and violations of the shipper-must-have-title requirement. The flipping transactions involved the transportation of 13.9 Bcf of gas on 20.6 Bcf of discounted pipeline capacity acquired through flipping transactions. The shipper-must-have-title violations involved 7.8 Bcf of gas.

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"standing offers" for residential electric and gas service, which will allow residential customers to instantly compare prices and, if desired, enroll with a supplier, as opposed to the process used for non-residential customers where a blind auction is run for each customer.

Aside from the previously announced suppliers of Energetix and NYSEG Solutions, Smith was able to confirm that Hudson Energy Services will be offering service through BidURenergy.

Unlike Texas, where there are about half a dozen "name" online brokers contesting the mass market, and even more boutique websites offering online brokering, New York has not seen the same saturation of mass market broker websites. Although one or two, such as SaveOnEnergy.com and WhiteFence, have offered New York residential electric and gas service for some time, they have not rolled out widespread marketing plans targeting New York residential customers.

SaveOnEnergy.com said it is improving its residential enrollment transaction capability to prepare for a launch in the fourth quarter, accompanied by a full-scale New York marketing effort in early 2010 including television, radio, and billboards. SaveOnEnergy said it is currently in discussions with a handful of suppliers about expanding its New York presence.

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comparisons, NEM added.

Additionally, should the PUC adopt monthly Purchased Gas Cost adjustments, the E-factor should be adjusted monthly as well, NEM said.

NEM supported monthly changes in the Purchased Gas Cost adjustments as enhancing opportunities for sustained competition.

"[M]arketers must perceive a continuous opportunity to participate in a true market and provide consumer with value and options in order to justify substantive resource investments in the Commonwealth," NEM said.

However, NEM noted that statute contemplates that if the Commission orders monthly Purchased Gas Cost adjustments, LDCs shall also offer a 12-month fixed product, citing 66 Pa. C.S. § 1307(f)(II). Introducing a fixed price option would be contrary to the Commission's goals of removing barriers to competition, NEM said, noting that the goal of stating the LDC commodity rate as a pass-through of costs would be undermined. Procuring fixed rate supplies would impose a new cost on LDCs whose costs would have to be appropriately allocated to customers, NEM added.

NEM opposed a suggestion from Vice Chairman Tyrone Christy to require LDCs to forecast natural gas prices 12 months out and disclose such forecasts to customers. The policy would be, "speculative at best and perhaps harmful to consumers at worst," NEM said, noting commodity prices can change by the minute and even differ by source. As an alternative, LDCs could be required to post rates from the previous the previous 12 months on their website, to make consumers aware that gas prices frequently change.

Regarding POR, the Commission's proposed rulemaking order would require negotiations to set the discount rate, as the Commission would decline to impose specific constraints. NEM asked that even if the Commission wishes to refrain from setting strict parameters, it should offer guidance regarding the discount rate, suggesting the PUC adopt the findings with regard to POR at PPL Electric Utilities. Specifically, NEM said that the discount rate should not reflect uncollectibles if uncollectibles remain in base rates, to prevent a double collection of such costs from shopping customers. The discount should only reflect incremental expenses, NEM added.