

Energy Choice *Matters*

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N.J. to be Surpassed by Neighbors in Market-Priced Default Service Absent Change, RESA Says

New Jersey will have, "the least market-reflective default service of any major industrialized state in the Northeast," by 2012 absent any changes to the current hourly pricing cutoff, the Retail Energy Supply Association said in comments on the provision of Basic Generation Service (BGS).

Noting that fixed-price BGS customers are currently paying, "artificially high, above-market," prices due to the economic recession and the use of three-year laddered contracts for customers under 1,000 kW, RESA urged the BPU to lower the Commercial and Industrial Energy Pricing cutoff to 750 kW for the 2010 auction, and eventually 500 kW.

Retail price distortions caused by the laddering structure have, "insidiously delayed," the development of a sustainable competitive market, RESA said.

Although the current headroom in the fixed price class has led to a more than five-fold increase in migrated customers (from 3,400 as of July 2008 to 19,500 as of July 2009), the boom-bust cycle caused by the annual fixed pricing has discouraged suppliers from dedicating resources to the mid-merit and small volume market.

In addition to the above-market prices caused by laddering, RESA noted that the fixed BGS price forces customers to pay flat rates based on the system peak, even if customers may consume more power at off-peak, and would not pay peak rates if they were on hourly priced service. Requiring customers to pay a rate based on the peak when the customer uses most power during off-peak times could drive jobs and economic activity to states where such off-peak customers are charged

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UI Joins CL&P in Supporting Bilateral Contracting Above 20% of Standard Service

United Illuminating has joined Connecticut Light and Power in requesting that the DPUC allow the distribution utilities to procure more than 20% of Standard Service supplies bilaterally, "if customers would benefit from such contracts," UI said in supplemental comments on bilateral contracting.

In authorizing the use of bilateral, long-term contracts to supply a portion of Standard Service load last year, the DPUC capped the percentage to be procured outside of the current three-year laddered RFP process to 20%. As only reported in *Matters*, CL&P has on several occasions pushed the DPUC to allow utilities to procure additional bilateral supplies when market conditions are favorable or customers would otherwise benefit from increased bilateral contracting (*Matters*, 7/8/09).

UI now says that the artificial 20% limit, not contained in statute, could deprive customers of lower-priced supplies in solicitations where more than 20% of supply is offered, or in future solicitations if more favorable market conditions develop.

Furthermore, UI said that, if a cap is maintained, it should be based on the percent of eligible Standard Service load, rather than the amount of actual Standard Service load, due to fluctuating migration levels. Basing the 20% cap on eligible load rather than served load would allow the utilities to buy additional bilateral supplies.

UI also supported a determination that the cost and benefits of long-term contracts should be

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Maine Examiner's Report Would Deny CPCN for GridSolar Generation

Two hearing examiners would dismiss GridSolar, LLC's petition for a Certificate of Public Convenience and Necessity for its distributed solar and propane-fired generation project meant to increase distribution system reliability, finding that the GridSolar Project will be a generation facility and not "transmission plant" as that term is defined in Title 35-A, M.R.S.A., according to an examiner's report released Friday (2009-152).

As only reported by *Matters*, GridSolar is seeking a CPCN for its distributed generation project, arguing that its project is a transmission alternative to Central Maine Power's Maine Power Reliability Project because the generation will facilitate reliability in certain load pockets. GridSolar is also seeking cost-of-service regulation for the sale of energy, capacity and RECs generated by the GridSolar project through a long-term contract with CMP (*Matters*, 5/26/09).

However, the examiners would dismiss the CPCN petition for failure to state a claim upon which relief may be granted, since GridSolar will not be a transmission and distribution utility, and its project will not constitute a transmission line capable of operating at 69 or more kV and therefore will not qualify for or require a CPCN pursuant to Title 35-A.

GridSolar relies on statutory language, which defines transmission and distribution plant as property used "in connection with" or "to facilitate" the delivery of electricity for public use, as making its distributed project a transmission asset. However, the examiners noted that the definition cited by GridSolar must be read in the context of the entire Electric Restructuring Act, under which the price for generation service is set by market forces or is "deregulated," whereas the delivery of electricity or transmission and distribution service remains a rate-regulated, utility service.

To restructure the electric utilities, the Act required, with limited, specific exceptions, the utilities to, "divest all generation assets and generation-related business activities," the examiners noted.

"The flaw in GridSolar's logic ... is that almost any kind of generation facility provides reliability to the transmission grid and a generation owner can transform its facility to a rate-based regulated transmission facility merely by asserting that its intended use is for reliability purposes. Thus, the bright line between generation and transmission intended by the Legislature in the Restructuring Act not only fades, but the distinction virtually disappears," the examiners added.

Furthermore, the Commission cannot grant GridSolar's request that CMP be ordered to enter into long-term contracts to purchase the project's output at cost-of-service rates, pursuant to 35-A M.R.S.A. § 3210-C(3), the examiners said. "While section 3210-C(3) does authorize the Commission to direct investor-owned T&D utilities such as CMP to enter into long term contracts for capacity resources and available associated energy, section 3210-C(6) requires that the Commission select the capacity resources through a competitive bidding process," the examiners noted.

Columbia Gas Says Pa. Price to Compare Should Credit Sales Customers for Choice Expenses

Pennsylvania LDCs should credit bundled service customers, through the Price to Compare, costs that are only borne to serve customers on competitive supply, Columbia Gas said in comments on the PUC's rulemaking to remove barriers to gas competition (*Matters*, 8/26/09).

Columbia noted that LDCs incur costs to procure and manage Supplier of Last Resort supplies that are the result of shopping customers. LDCs also incur costs to execute choice enrollments, Columbia added.

Columbia said it was concerned that the PUC's unbundling proposal would make sales customers bear a share of such competitive supply costs, while at the same time shouldering all Purchased Gas Costs (including administrative costs), contrary to the goal of a level playing field. Accordingly, Columbia suggested that bundled customers be credited in the Price to Compare for the costs they pay in base rates to support retail supplier activity.

Alternatively, LDCs should be allowed to directly bill suppliers or suppliers' customers for such administrative costs, Columbia said.

Columbia and several other LDCs also opposed the Commission's proposal that would require the purchase of supplier receivables even for customers not on utility consolidated billing. Columbia said that allowing the purchase of receivables under dual billing would sever the relationship between the LDC's ability to terminate service and the POR discount rate. The UGI LDCs similarly argued that retail suppliers whose dual-billed receivables are purchased by the LDC would have little incentive to collect debts aggressively.

Although the PUC proposal states that the rationale for eliminating the requirement for utility consolidated billing under POR is to offer suppliers more flexibility in developing innovative products, the Energy Association of Pennsylvania noted that suppliers would still be limited to using POR only for commodity supply costs. Since any receivables for additional value-added services could not be purchased by the LDC, suppliers will still need to track such receivables separately. Thus, billing for them separately while commodity supply is billed on the utility bill would not be problematic, the Energy Association of Pennsylvania said.

Columbia also said that suppliers using POR must be required to enroll all customers regardless of credit to ensure there is no cherry picking, since cherry picking could raise the uncollectible rate of bundled service included in the Price to Compare, while lowering the uncollectible rate of suppliers used to set the POR discount.

Briefly:

ResCom Energy Seeks Conn. License

Start-up ResCom Energy LLC applied for a Connecticut electric supplier license to serve all classes of customers. ResCom is run by CEO David Cohen, co-owner of Standard Oil of Connecticut where he grew active accounts by 100%, and Standard Security Systems. Combined the two firms have over 35,000 customers. Marc Kippur will serve as director of risk management and energy procurement. Kippur has worked with Infinite Energy, Total

Gas & Electric, and KeySpan Energy in pricing, forecasting, risk management, and supply. Energy Services Group will handle various wholesale business processes such as scheduling and settlement.

N.Y. PSC Revokes ESCO Licenses of Four Inactive Suppliers

The New York PSC revoked the eligibility of the following ESCOs for failure to file newly required customer disclosure statements under the Uniform Business Practices, and failure to file the annual January 31 statement regarding their Retail Access Eligibility Form and application package: Atlantic Utilities LLC; Enercon, Inc.; Energy One LLC; and Highway 3 MHP LLC d/b/a eTricity. None had been actively marketing in New York, and only Energy One LLC had completed EDI testing. The PSC said in its order that, "[w]ere these ESCOs currently serving customers, we would consider the effects of the consequences we could impose pursuant to UBP Section 2.5 on the ESCOs' customers. We would not want to deprive any customers of the benefits of any existing arrangements they might have with an ESCO."

Settlement in Principle Reached in Columbia SSO Auction Case

Active parties in Columbia Gas of Ohio's proceeding to implement a Standard Service Offer auction to procure and price bundled service supplies have reached a settlement agreement in principle, Staff of the Public Utilities Commission of Ohio said in a request to suspend the current deadline for testimony (Only in Matters, 2/17/09). Staff said that parties intend to finalize a stipulation by the hearing date of September 29.

Fitchburg Gas and Electric Names Suppliers

Fitchburg Gas and Electric has entered into contracts with the following suppliers to meet supply requirements during the 2009-10 winter season, the LDC said in response to an interrogatory regarding its five year purchasing plan (Only in Matters, 7/6/09): Hess Corporation (Nov. 2009 - Oct. 2010); Chevron Natural Gas (Nov. 2009 - Apr. 2010); DCP Midstream Gas Supply Resources LLC (Summer Fill of LPG tanks; and Nov. 2009 - Mar. 2010); and Suez

LNG Distrigas of Massachusetts LLC (Nov. 2008 - Oct. 2013).

APPI Partners with Nine Pa. Business Groups

Broker Affiliated Power Purchasers International announced it has entered into affinity/partnership agreements with nine Pennsylvania business associations, including: Manheim Area Chamber of Commerce; MANTEC of South Central Pennsylvania; Nazareth Area Chamber of Commerce; Pennsylvania Health Care Association; Pennsylvania Manufactured Housing Association; Slate Belt Chamber of Commerce; Susquehanna Valley Chamber of Commerce; Whitehall Township Chamber of Commerce; and York County Chamber of Commerce. APPI also recently launched a new website with additional customer resources and increased usability. APPI said it is holding customer webinars on the Pennsylvania electric market on September 10, and on the Ohio electric market on September 16.

American PowerNet Executes Managed Portfolio for Four Munis

American PowerNet said it is managing the supply procurement program of four New Jersey municipalities, resulting in a 5% decrease in supply costs for one of the munis. American PowerNet is using a managed portfolio to serve the Park Ridge Board of Public Works (which saw the 5% price reduction) as well as the municipalities South River, Seaside Heights, and Lavallette. The portfolio includes purchasing blocks of power at various times and quantities to take advantage of favorable market conditions and to reduce risk premiums in full requirements contracts, American PowerNet said.

MISO Aggregation of Retail Customers Filing Delayed Until Sept. 30

The Midwest ISO informed FERC that it intends to delay until September 30, 2009, its compliance filing and tariff changes to permit the Aggregation of Retail Customers for demand response, citing ongoing discussion on several issues. As only reported by *Matters*, MISO had planned to submit its tariff changes today, after submitting an "indicative" proposal to FERC

earlier this spring (*Matters*, 4/29/09). MISO said additional discussions continue on metering and verification, communications, cost allocation, and aggregator registration requirements. MISO said that its September filing would also conform to the recently issued FERC Order No. 719-A, which is another reason for the delay.

Dayton Power & Light Files Required Change to Expand Customer Usage History

Dayton Power & Light filed updated tariffs to reflect the Public Utilities Commission of Ohio's new requirement that customers can request up to twenty-four months of their usage and payment history free of charge (Only in *Matters*, 11/6/08)

Ameren Files Billing Complaint Against Prairieland

Ameren Services Company, on behalf of its transmission owning utilities, filed a complaint at FERC against Prairieland Energy to compel Prairieland to pay amounts owed to Ameren for network service, after Prairieland was previously underbilled due to Prairieland's failure to report the gross load of its system. Prairieland failed to report its behind-the-meter generation contrary to the Midwest ISO Service Agreement and Good Utility Practice, Ameren said, leading to Prairieland being billed under net load rather than gross load as required. Prairieland was underbilled for approximately two years, including a year in which Ameren, having become aware of the behind-the-meter generation, was still forced to estimate gross load since Prairieland still did not report its behind-the-meter generation. Ameren says Prairieland owes nearly \$568,000 plus interest, but Prairieland refuses to pay based on MISO's business practices manual which prohibits rebills after 90 days. However, Ameren said that the MISO provision only bars a Transmission Customer from disputing a MISO invoice after a deadline, and does not apply to disputes between Transmission Owners and Transmission Customers. The business practices manual specifically provides that disagreements between Transmission Owners and Transmission Customers are not considered Day 1 Transmission Settlement Disputes, and should be settled utilizing the

Midwest ISO's alternative dispute resolution procedures set forth in Attachment HH of the Midwest ISO's Tariff, Ameren said.

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lower off-peak hourly prices, RESA noted.

RESA contrasted New Jersey with several other Northeast markets with lower demand cutoffs for hourly-priced default service. RESA pointed to New York with cutoffs of 500 kW or 300 kW; Pennsylvania with cutoffs varying from 500 kW to 300 kW; Commonwealth Edison with a cutoff of 400 kW; and Maryland with a cutoff of 600 kW. Other markets which offer a fixed-price default service for large customers (Connecticut, Massachusetts) price supplies quarterly rather than annually, RESA added.

Supplier Offer Website

RESA also supported the development of a website to provide customers 500 kW and larger with third-party supplier offers and demand response offers, currently under development in a BPU working group.

The website, which would be hosted by the BPU, would require registration for customers to receive offers. Customers would be informed of the website through postcards from their utility and the BPU, bill inserts, and through various business groups (chambers of commerce, New Jersey Business & Industry Association, New Jersey Food Council, etc.).

When registering online at the website, customers will be given an option to check if they would like to release their information to competitive commodity and load response providers. Information would include name, address, email address, phone number, and account number. Customers would also be given an option to provide special instructions to suppliers. Suppliers would receive customer information via EDI, and could then make specific offers to customers.

RESA noted this process would be helpful to suppliers because by law contact information cannot be obtained from the electric distribution utilities.

Initially the website would be for electricity only, but could be expanded to natural gas in the future.

Regarding the questions asked by the BPU with respect to the 2010 auction, RESA said that the 37% load cap should not be increased, as raising it would only increase customer costs. RESA also said that any approach to RPS compliance should be competitively neutral: either the status quo of BGS wholesale suppliers and third-party retail suppliers being responsible for their own compliance, or the compliance obligation should be removed for both types of market participants. Relieving only BGS wholesale suppliers from RPS compliance, while still requiring third-party retail suppliers to meet compliance, would create pricing distortions, RESA noted.

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nonbypassable. Nearly all long-term contracts will be economic for customers at some time, and uneconomic for customers at other times, UI said. By making the costs and benefits nonbypassable, customers would not be able to opportunistically leave Standard Service when contracts are uneconomic, only to return when contracts are economic, to reap the benefits of contracts whose costs have been borne by non-migrating Standard Service customers, UI noted.

The time it takes the DPUC to review and rule on contracts is also the "most significant issue" for bidders, UI said, in advocating for a one-day approval deadline for fixed-price contracts of up to five year in length. Fixed-price contracts five to 10 years in length should be reviewed and approved within five days, UI said. Non-firm contracts, or contracts without fixed pricing, may require longer review, UI added, but few bidders are willing to accept a review process that drags on for months.

UI argued that retail suppliers should be excluded from the Department's review of contracts, due to their vested business interests, and confidentiality concerns.