Energy Choice Matters
September 21, 2009

Maryland PSC Denies BGE Customer List Petition

The Maryland PSC denied Baltimore Gas & Electric's petition to make enhanced customer lists available to competitive electric and gas suppliers, stating that granting the petition would amount to an "end run" around the Commission's findings in RM 17, in which the Commission declined to adopt a customer list provision as part of comprehensive electric market rules.

As only reported by *Matters*, BGE had asked for authority to make available to suppliers, at no charge, customer lists containing: 1) customer name; 2) billing address; 3) service address; 4) account number; 5) rate class; 6) historical usage for the prior 12 months; 7) Standard Offer Service type; and 8) fuel type (Only in Matters, 5/4/09).

BGE proposed that customers could opt-out of being included on the customer lists, but the Commission found that such a mechanism is, "inconsistent with the principles underlying the new competitive electric and gas supplier consumer protection regulations," in RM 17.

A customer list provision was included in the RM 17 code as sent to the Joint Committee on Administrative, Executive and Legislative Review several years ago, but in November 2006 JCAR opposed the inclusion of customer lists. After several years of delay, the Commission eventually approved an RM 17 proposal which did not include the customer lists this year.

"BGE's request, whether or not it is within the Commission's statutory authority to order, would effectively end-run that four-year rulemaking process and, contrary to that process, permit disclosure of customer account information without the customer's express permission," the Commission said.

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Grid Says Mass. Referral Offers for Bill Insert Should be Submitted 30 Days Before Effective

National Grid petitioned the Massachusetts DPU for clarification or reconsideration of the DPU's order requiring the electric distribution utilities to institute a competitive supplier referral program that includes, among other things, a requirement that utilities send current supplier offers to customers through a bill insert three times per year.

As first reported by *Matters*, the DPU ordered that referral program offers shall be included in bill inserts in addition to being posted online on each utility's webpage (Matters, 9/2/09).

National Grid said that the DPU's model terms and conditions contemplate that suppliers must only provide the utility with current pricing five days before the information is then required to be sent via a bill insert to residential and small commercial customers. Grid called such a schedule "unworkable."

Grid recommended that suppliers be required to provide the utilities with their offers by the first day of the month immediately preceding the month in which the offer will become effective. Grid said that such a timeline would allow the offers contained in the bill inserts to be consistent with the offers contained on Grid's referral webpage when customers receive the bills. But Grid’s schedule would also require suppliers to hold open a price for more than 30 days.

"[G]iven the time needed to prepare bill inserts, coupled with the scheduling of the Company's

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CL&P Reports August Migration Stats

Aug. '09 Supplier Accounts	Residential	Business	Total	% of Supplier Customers	Change vs. July Total
CLEARVIEW ELECTRIC	1,630	523	2,153	1.4%	1,039
CONSOLIDATED EDISON SOLUTIONS	2,439	1,400	3,839	2.5%	99
CONSTELLATION NEWENERGY	930	8,544	9,474	6.2%	(471)
DIRECT ENERGY BUSINESS	112	1,549	1,661	1.1%	(18)
DIRECT ENERGY SERVICES	29,608	4,940	34,548	22.5%	4,950
DISCOUNT POWER INC	0	0	0	0	0
DOMINION RETAIL INC	50,713	10,958	61,671	40.2%	(156)
ENERGY PLUS HOLDINGS LLC	353	5	358	0.2%	348
GEXA ENERGY CONNECTICUT	13	952	965	0.6%	64
GLACIAL ENERGY OF NEW ENGLAND	494	1,836	2,330	1.5%	129
GREEN MOUNTAIN ENERGY	0	0	0	0	0
HESS CORPORATION	525	1,883	2,408	1.6%	1,697
HORIZON POWER AND LIGHT	0	0	0	0	0
INTEGRYS ENERGY SERVICES	35	3,133	3,168	2.1%	(91)
LIBERTY POWER HOLDINGS		35	35	0.0%	(17)
MXENERGY ELECTRIC INC	2,378	1,876	4,254	2.8%	150
PEPCO ENERGY SERVICES		8	8	0.0%	6
PUBLIC POWER & UTILITY	18,587	3,707	22,294	14.5%	1,250
ROYAL BANK OF SCOTLAND	0	0	0	0	0
SEMPRA ENERGY SOLUTIONS	3	989	992	0.6%	(30)
SUEZ ENERGY RESOURCES NA	9	677	686	0.4%	(82)
TRANSCANADA POWER MARKETING	26	2,366	2,392	1.6%	3
VIRIDIAN ENERGY	1	0	1	0.0%	1
WHOLE FOODS MARKET GROUP	0	2	2	0.0%	(1)
WORLD ENERGY	0	0	0	0	0
Total All Suppliers	107,856	45,383	153,239	100.0%	8,870

Aggregate Data

Customer Load - Suppliers and CL&P (MWh)

	Residential - SS		Business - SS		Business - LRS		Total CL&P Territory	
	MWh	% of Class	MWh	% of Class	MWh	% of Class	MWh	% of Total
Suppliers	104,844	11.6%	387,095	62.3%	427,302	89.2%	919,242	45.9%
CL&P	799,009	88.4%	234,217	37.7%	51,969	10.8%	1,085,195	54.1%
Total	903,852		621,312		479,272		2,004,436	

Customer Count - Suppliers and CL&P

	Residential - SS		Business - SS		Business - LRS		Total CL&P Territory	
	Customers	% of Class	Customers	% of Class	Customers	% of Class	Customers	% of Total
Suppliers	107,856	9.8%	44,503	37%	880	84.2%	153,239	12.6%
CL&P	988,267	90.2%	74,598	63%	165	15.8%	1,063,030	87.4%
Total	1,096,123		119,101		1,045		1,216,269	

SS = Standard Service **LRS = Last Resort Service** **Data as reported by CL&P**

National Grid Posts Basic Service Rates for Period Beginning Nov. 1

Default Service Charges Including Default Service Cost Reclassification Adjustment Factor

			Zonal Default Service Charges			
			NEMA	SEMA	WCMA	
	Residential (R-1, R-2, R-4, E)	Commercial (G-1)	Industrial (G-2, G-3)	Industrial (G-2, G-3)	Industrial (G-2, G-3)	Commercial (Streetlights)
Variable Default Service Charge, ¢/kWh						
Nov. 2009	7.554	7.547	6.552	6.548	6.635	7.547
Dec. 2009	8.306	8.352	7.581	7.512	7.639	8.352
Jan. 2010	9.230	9.210	8.690	8.637	8.778	9.210
Feb. 2010	9.511	9.509	n/a	n/a	n/a	9.509
March 2010	8.436	8.389	n/a	n/a	n/a	8.389
April 2010	8.512	8.359	n/a	n/a	n/a	8.359
Fixed Default Service Charge, ¢/kWh						
11/09- 4/10	8.649	8.573	—	—	—	8.573
11/09- 1/10	—	—	7.639	7.596	7.715	—

Synergy Energy Seeks to Exempt Direct Customers from 18-a Commodity Assessment

Synergy Energy Holdings petitioned for clarification or modification of the New York PSC's order implementing a revised Section 18-a surcharge, which now includes an estimate of ESCO revenues in the assessment, because Synergy says the assessment should not be applied to customers buying power directly from the wholesale markets (09-M-0311).

Based on information and belief, Synergy said that all of the utilities have implemented the revised Section 18-a surcharge such that direct customers who purchase their commodity directly from the wholesale market, and not from the utility or an ESCO, are still being charged the commodity-related portion of the 18-a assessment in their nonbypassable delivery surcharge.

However, Synergy argued that the intent of the legislature in expanding the 18-a assessment was to levy a surcharge on the commodity component of the gross operating revenues derived from utility operations within the state. Direct customers, however, realize no revenue from utility operations, as their purchases in the wholesale market represent a cost of doing business, Synergy said.

Synergy noted that statute applies the expanded 18-a assessment to utilities and, "entities deemed eligible by the department to sell electricity and/or natural gas to end-use customers."

The Uniform Business Practices, Synergy said, recognize that direct customers do not, and are not authorized to, sell electricity and/or natural gas to end-use customers. Rather, a direct customer is an, "entity that purchases and schedules delivery of electricity and/or natural gas for its own consumption and not for resale."

Accordingly, Synergy asked the Commission to find that direct customers shall not pay the expanded 18-a assessment, and that utilities refund back to direct customers any amounts that have been charged from the date that they began collecting the revised assessment.

Synergy's affiliate Fluent Energy provides technical services to more than a dozen entities that purchase their commodity directly from the wholesale markets.

Ontario Board Maintains Quarterly Gas Cost Adjustments

The Ontario Energy Board found that a 12-month forecast period and a quarterly rate adjustment frequency for default natural gas service retail prices remain appropriate, in an order on its investigation into the quarterly adjustment mechanism.

The Board rejected a recommendation from retail suppliers to establish a reference price on a one-month forward basis, as such a price, "would not be reflective of the manner in which gas utilities in Ontario procure gas supply and use storage," the Board said.

While competitive suppliers had supported monthly gas cost changes as enhancing a customer's ability to compare competitive options with default service, the Board found that, "comparing multi-year fixed price offerings such as those provided by gas marketers with a monthly reference price is not an appropriate comparison and will not assist consumers in making informed decisions about their energy choices."

"The Board believes that the rolling 12-month forecast period removes the effects of seasonality and is a suitable benchmark for customers to use in evaluating the reasonableness of multi-year fixed-price offerings (which necessarily remove seasonality effects)."

The Board also ordered that the current methodology used to establish the reference price shall continue.

Additionally, the existing deferral and variance account procedures used by the LDCs shall continue under the Board's order, as the Board rejected clearing the account on a monthly basis as suggested by competitive suppliers.

The current load balancing mechanisms of Union Gas Limited and Enbridge Gas Distribution were ruled to be appropriate as well. The Board denied a request from suppliers to mandate standardize billing terms to be used by all LDCs on their bills.

FERC Adopts ISO-NE De-list Bids for Dominion on Common Cost Issue

FERC approved ISO New England's rejection of Forward Capacity Market de-list bids submitted by Dominion's Salem Harbor units and adopted the market monitor's alternate bids with respect to the allocation of the common costs of the units, as well as the depreciation rate (ER09-1424, Matters, 8/20/09).

In its de-list bids, Dominion applied all common costs of the Salem Harbor Station to each unit's Going Forward Costs, while the market monitor determined the Going-Forward Costs of various multi-unit combinations. The market monitor also used a seven-year (or longer for one set of capital costs) amortization period, versus three years as used by Dominion.

After directing both ISO-NE and Dominion to further justify their bids, FERC agreed with ISO-NE that Dominion's bids would result in Salem Harbor over-recovering its common costs if more than one unit is required for reliability purposes, which it deemed unjust and unreasonable.

"[W]e accept ISO-NE's proposed combination rates for the Salem Harbor Units' de-list bids in question for the October 2009 Forward Capacity Auction," FERC said, as it exercised its section 206 authority to ensure just and reasonable rates even though the ISO's adjustment to the de-list bids were not expressly authorized by the tariff. "While the Commission normally is reluctant to exercise that authority and order extra-tariff relief, we will do so in a situation such as this one, where adherence to the letter of the tariff would clearly and plainly create unjust and unreasonable results, and where, as here, the solution devised by ISO-NE will bring about a reasonable allocation of the Salem Harbor common costs," FERC said.

The Commission also found that Dominion's use of a standard three-year depreciation rate is not just and reasonable, and that ISO-NE's adjustments to the depreciation rates are appropriate. "As we have stated previously, while resources are provided the opportunity to recover their costs, they are not guaranteed that they will recover those costs," FERC said. By using a shorter depreciation period, FERC noted Dominion will recover its costs more quickly, but with no guarantee that it will leave the market after the 2012-2013 capability year.

FERC's order is a one-time action limited to the Salem Harbor units, as the Commission previously directed ISO-NE to work with stakeholders to develop tariff provisions that explicitly address ISO-NE's treatment of similar common cost situations prior to the October 2010 Forward Capacity Auction to avoid a repeat of the controversy presented in the instant case.

ERCOT August Disconnects Decline vs. 2008

Completed disconnects for non-pay in ERCOT for August were down from a year ago at 70,000, and on par with the numbers from 2007, PUCT Staff said in a preliminary review of the data.

Disconnects For Non-Pay Completed

Summer 2009

June	57,604
July	88,754
August	70,307

Summer 2008

June	92,337
July	88,798
Aug.	109,915
Sept.	86,620

Summer 2007

June	81,659
July	92,399
Aug.	73,408
Sept.	100,160

Staff said that the numbers are accurate, but subject to further checks and screening before they will be considered final.

Financial Marketers Object to Narrowing of RSG Task Force

A Midwest ISO motion for clarification on the scope of a Revenue Sufficiency Guarantee task force ordered by FERC seeks to "derail" progress made in developing an independent analysis of RSG charges, and would not permit the full review of whether proposed RSG exemptions are just and reasonable, EPIC Merchant Energy, SESCO Enterprises, The AI Funds, Jump Power, and Solios Power said in an answer at FERC.

As only reported by *Matters*, MISO asked FERC to limit the scope of the RSG task force to issues related to its proposed RSG exemptions for intermittent and other certain resources (Matters, 9/9/09). FERC ordered the task force to review RSG issues after finding MISO failed to justify its proposal.

However, the financial marketers said that in MISO's motion for clarification on the task force's scope, "MISO clearly seeks to sharply limit or avoid any analysis of ... whether the tariff revisions result in improper subsidies and whether the substantial rate increase imposed on non-exempt deviations has been justified."

The financial marketers argued that the exemptions would shift RSG costs to non-exempt entities. "Such a cost shift not only amounts to an unwarranted subsidy, but it has a disproportionately large adverse impact on virtual supply offers since every MWh of virtual supply is currently assessed RSG charges, while only a small fraction of load (deviations) is subject to RSG charges. If RSG costs caused by the exempt deviations are going to be shifted to other market participants who did not cause them, they should be allocated to all market participants based on Market Load Ratio Share, absent a demonstration that it is just and reasonable to allocate them to a subset of market participants," financial marketers said.

Briefly:

Dominion Retail Extends Ohio Residential Offer

Dominion Retail has extended until Oct. 30, 2009, the time during which residential (RS) customers at Duke Energy Ohio can enroll onto a fixed rate of 6.88¢/kWh, according to PUCO's listing of supplier offers. The rate is fixed through the December 2010 meter reading cycle, and is limited to the first 25,000 customers who enroll. Originally, the offer was to expire September 30 (Only in Matters, 8/19/09).

Aspen Energy Seeks Ohio Electric License

Aspen Energy Corporation applied for an Ohio electric broker/aggregator license to serve all customer classes in all service territories.

DPUC Closes PP&U Docket

With Public Power & Utility submitting a letter of credit for $2500,000 (Only in Matters, 9/18/09), the Connecticut DPUC closed its re-opening of PP&U's licensing docket (07-06-13RE02) without taking further action, finding PP&U to be in compliance with §16-245(c) of the Connecticut General Statutes and §16-245-4 of the Regulations of Connecticut State Agencies.

PUCT Staff Posts Draft Letter of Credit, Guaranty

PUCT Staff posted in Project 37035 a draft form letter of credit, and a draft standard form guaranty agreement, to be used by REPs under new financial certification standards. If the drafts are approved for comment by the Commission, Staff would ask that REPs review the draft standard form irrevocable stand-by letter of credit with their banker to determine if the banker could (hypothetically) execute the letter of credit in its current draft form. If the banker could not execute the letter of credit in its current form, or if the banker has any other issues or concerns, the Commission would request that the REP identify those issues in its comments.

FERC ISO-NE Capacity Import Hearings Will Not Include Remedies

FERC's hearing process to investigate allegations of a high-offer strategy used by several New England capacity importers will not consider remedies, an ALJ ruled Friday (Matters, 8/25/09). Although load representatives urged that remedies be included in the hearings' scope, "Nothing in the Hearing Order suggests the Commission contemplated that remedies should be considered in these proceedings ... it makes perfect sense here to conclude the Commission intentionally reserved to itself any determinations with respect to whether and what remedies may be warranted: it will have a full market manipulation record, developed in the instant proceedings, to inform it in making any such determinations," the ALJ said.

FERC Staff Announces Demand Response Conferences

FERC Staff will hold two technical conferences to support the development of the National Action Plan on Demand Response, on October 22 in Washington, D.C., and on October 27 in Portland, Ore.

FERC Denies Munis' Complaint on NYPA Gross-Up

FERC denied a complaint from several New England municipal systems, which had sought to prevent the elimination of the reserve margin gross-up for New York Power Authority imports in the forward capacity market, as FERC held that the munis failed to establish sufficient grounds to grant a departure from the ISO-NE tariff and treat the NYPA imports differently than similarly situated resources (EL09-60).

Customer Lists ... *from 1*

"Wholesale [sic] suppliers can, pursuant to existing Commission Order, continue to obtain customer lists of names, addresses and telephone numbers from BGE at a cost to conduct any marketing efforts that they may wish to undertake," the Commission added.

"The Commission concludes that the availability of such lists is sufficient, and that BGE's offer to provide greater information to suppliers, although well-intentioned, shall be denied."

Mass. Referral ... *from 1*

billing cycles, receiving notice of the proposed Electric Offer just five days before the month in which said Electric Offer must be compiled in the Electric Supply Offer Table and printed and included as a bill insert is not feasible," Grid said.

Grid reported that for its existing GreenUp program, which similarly includes offers for RECs in bill inserts, the insert process takes 25-30 days to complete.

Additionally, because Grid's billing cycle typically begins during the week prior to the first day of the billing month, if suppliers were allowed to submit offers for the bill insert as late as five days before they become effective (the first of the month), Grid said that the bills would be mailed prior to that deadline, leading to a mismatch between rates offered in the bill insert, and rates listed on Grid's referral webpage.