

Energy Choice

Matters

September 25, 2009

Dominion East Ohio Energy Agrees to Affiliate Disclosure Guidelines in Ohio Settlement

Dominion East Ohio Energy (an Ohio trade name for Dominion Retail) has agreed to abide by certain affiliate disclosure standards for its promotional materials as part of a settlement with PUCO Staff and the Ohio Consumers' Counsel to resolve a complaint filed by OCC regarding a Dominion East Ohio Energy postcard referencing the new Standard Choice Offer at LDC Dominion East Ohio (Matters, 3/25/09).

As first reported by *Matters*, the mailer informed customers that they, "will no longer receive gas supply from Dominion East Ohio beginning April 2009," referencing the fact that individual SCO suppliers now serve specific customers. OCC alleged that the statement is prone to cause customers to think their utility gas service would be terminated. Dominion East Ohio Energy disagreed, and does not admit wrongdoing under the settlement.

Under the bright-line standards included in the stipulation, all promotional materials disseminated by Dominion East Ohio Energy shall state that, "Dominion East Ohio Energy is an affiliate of Dominion East Ohio, but not the same company."

If the promotional material is in the form of a postcard, the Dominion logo, if used, shall be displayed on the address side of the postcard, and the affiliate disclosure shall appear directly above the logo in the largest font size that will permit the affiliate disclosure to be displayed in a single line of type.

Whether or not the Dominion logo is used on the address side of the postcard, the affiliate

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Del. PSC Proposes to Raise Threshold Which Triggers Waiver of Net Metering Obligation

The Delaware PSC has proposed several revisions to its regulations applicable to net metering, which must be offered by competitive electric suppliers, to incorporate recent statutory changes.

As only reported by *Matters*, the PSC imposed expanded net metering obligations on competitive suppliers last year, including a requirement to offer net metering at non-discriminatory rates that are identical, with respect to rate structure and monthly charges, to otherwise applicable rates, and a prohibition on charging net metering customers stand-by fees or similar charges (Only in Matters, 9/8/08).

Among other things, the proposed changes would hold that, "If the total generating capacity of all Customer-generation using net metering systems served by an electric utility exceeds 5% of the capacity necessary to meet the Electric Supplier's aggregated Customer monthly peak demand for a particular calendar year, the Electric Supplier may elect not to provide Net Metering services to additional Customers." The current cap at which suppliers may seek a waiver is 1%.

The proposed revisions would also create a specific cap on the size of the customer-sited generation of farm customers eligible for net metering, of 100 kW per utility meter. The current limits are 25 kW for residential customers and 2 MW for non-residential customers.

Additionally, the draft rules would hold that suppliers, upon the request of the customer, must

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DPUC Orders All Suppliers to Demonstrate Security Compliance

The Connecticut DPUC yesterday ordered all competitive electric suppliers to submit by October 15 information demonstrating that they are current in their financial security requirements.

While Section 16-245-3 of the Regulations of Connecticut State Agencies requires certain information (mostly relating to gross receipts and expected load) to be reported by suppliers annually on October 15, the DPUC is requiring additional information.

Specifically, the Department directed suppliers to provide proof of the required security that is a condition of the licensure. The supplier's response shall include:

1. Documentation demonstrating that the supplier maintains security as required pursuant to Section 16-245-4 of the Regulations of Connecticut State Agencies;
2. A clear indication that the Department is listed as the obligee;
3. An indication of which option for the amount of security the supplier has elected; and
4. If the supplier has elected to maintain security based on a percentage of gross receipts:
 - a. The amount of the supplier's gross receipts from the sale of electric generation services in the twelve months immediately prior to this filing, and
 - b. The most recent of the following:
 1. The estimated gross receipts of the supplier for its first full year of operation; or
 2. The actual gross receipts of the supplier for its first full year of operation; or
 3. The latest filing the supplier has made with the Department regarding the amount of gross receipts from the sale of electric generation services prior to the current request.

PUCT Leans Toward Requiring Collateral From Panhandle CREZ Developers

After PUCT Chairman Barry Smitherman and Commissioner Kenneth Anderson expressed support for adding a collateral requirement for Panhandle Competitive Renewable Energy

Zone (CREZ) developers at yesterday's open meeting, the Commission invited stakeholder comments explaining what the level of security deposit should be and why. No final decisions on CREZ security were reached at the open meeting.

"These comments should be strictly limited to the amount of security deposit that is recommended and the methodology used to support the proposed number, and should refrain from repeating arguments previously made in initial and reply comments, although reference can be made to such arguments by indicating the page numbers where they were made," the Commission said in a notice (34577).

Smitherman and Anderson cited statutory language requiring a showing of financial commitment as compelling the need for a collateral requirement, which was not included under a Staff proposal.

Smitherman also cited a previous dissent in which he said that CREZ developers should be required to take service under the new lines within 90 days or lose their collateral, rather than having one year to take service as under some proposals.

Commissioners also expressed commitment to economic dispatch, opposing any dispatch priority for CREZ generators. Smitherman called any preference contrary to ERCOT's competitive market design, while Commissioner Donna Nelson said any priority would pick winners and losers in the market.

Vectren Merchant Function Working Group Submits Changes to SCO Tariff

Participants to Vectren Energy Delivery of Ohio's Merchant Function Exit Working Group have filed revisions at PUCO regarding the Standard Choice Offer auction and service to be established starting April 1, 2010.

Among other things, the parties filed to revise the monthly volume reconciliation methodology to an annual volume reconciliation, with cash-outs to flow through the Exit Transition Cost Rider.

Additionally, the revisions would reduce the required minimum no-notice storage inventory balance from 10% to 5% of seasonal contract quantity and provide for the use of an April FOM

(first-of-the-month) Index price for storage transfers made by terminating and defaulting suppliers to succeeding or remaining suppliers;

Parties also agreed on a contingency plan if the SCO auction is not successful. Initially after a failed auction, a subsequent SCO auction will be conducted, with Staff and Vectren determining which of the following variables to modify based on the previous auction's outcome, market conditions, and other factors:

- i. Number of tranches offered
- ii. Size of tranches
- iii. Maximum award per supplier, based on Total SCO load and percentage of total SCO load
- iv. Initial price
- v. Price decrements
- vi. Ratios associated with changing price decrements

If the subsequent SCO auction is also unsuccessful, Vectren will promptly conduct a Standard Service Offer auction. If the SSO auction fails, Vectren will issue an RFP for Portfolio Management Services.

Spring Hedging of Md. Summer Storage Injections Led to Higher Prices

Requiring Maryland LDCs to hedge summer storage injection volumes during the spring resulted in higher prices for storage injections versus what would have been paid under market prices, Baltimore Gas & Electric and Columbia Gas of Maryland reported in advance of a retail gas supply conference on September 29.

BGE said that per Commission order, it locked in summer storage injections at an average NYMEX price of \$4.61/Dth by March 26, 2009. Such hedged fixed price storage gas is about \$7 million above the market price based on the summer strip settlements, BGE said.

BGE argued that there is, "[n]o clear advantage to hedging future summer storage injections," noting that it can not lock in a price reflective of this summer's weakness going forward. Continuing expected demand weakness, record storage levels, and warmer than normal winter weather nationally are likely to put downward pressure on prices, BGE said.

Additionally, BGE argued there is no clear advantage to hedging future winter flowing gas,

since it can not lock in a price reflective of this winter or last winter's weakness going forward

"BGE's experience is that hedging leads to overall higher costs than purchasing at the market," citing an \$0.88/Dth average actual "premium" paid for Fixed Price Winter Flowing Gas over the last eight winters (as compared to the price charged for non-fixed price winter flowing gas).

BGE is projecting a 31% decrease in the gas commodity prices charged to customers this winter.

Columbia Gas of Maryland reported that it hedged 50% of winter 2009-10 volumes and prices over a series of purchases since 2007, at an average price of \$8.78/Dth.

For its hedged summer storage injections ordered by the PSC, Columbia hedged 40% of injections at an average price of \$4.57/Dth. The average market price during the summer was only \$3.46/Dth, resulting in a total premium of over \$600,000.

Washington Gas Light reported that its seasonal storage hedging was at a price of \$4.281, while winter hedging occurred at a price of \$5.206.

WGL expects average residential bills to be lower by 10-20% this winter, with half of the decrease due to lower commodity pricing and the remainder due to expected lower consumption.

Houston Announces 25-Year PPA with NRG Solar Plant

The City of Houston said it has selected NRG Energy in a competitive bid process to develop, own and operate a 10 MW solar photovoltaic project whose output will be sold to the city under a 25-year power purchase agreement. Houston will also receive the RECs generated by the project.

The price under the PPA is 8.2¢/kWh for the first year, which reflects a blend of the solar output and output from NRG's existing fossil and nuclear fleet which will back-up the solar plant. Ninety percent of the PPA's price is fixed under the 25-year term. The solar energy under the contract reflects a price of 19.8¢/kWh.

The \$40 million plant's output will cover up to 1.5% of the city government's power supply.

The agreement remains subject to approval from the City Council and Mayor. If approved, the plant is anticipated to come online in the second quarter of 2010.

The plant will use thin-film photovoltaic solar panels manufactured by First Solar Inc.

SCE Seeks Novation of Mountain View Contract

As exclusively reported by *Matters* earlier this month, Southern California Edison Company formally submitted an application to novate the Department of Water Resources' supply contract with Mountain View Power Partners to SCE. As part of the transaction, SCE would also acquire bundled Renewable Portfolio Standard energy from a wind facility owned by MVPP (Only in *Matters*, 9/8/09).

Under SCE's proposed schedule for the PUC's review of the novation, the case would not be completed by January 1, 2010, the Commission's original target date for removing DWR from its supply role. Per SCE's suggested schedule, a proposed decision would be mailed December 15, 2009, with reply comments on the draft due January 11, 2010, with a decision forthcoming sometime thereafter.

The novation and related transactions would result in SCE acquiring the exclusive rights to the renewable energy from the MVPP facility from January 1, 2008 to September 30, 2011, an expected annual output of approximately 200,000 megawatt-hours. "[T]hese transactions, as a whole, provide significant value for SCE's customers relative to other RPS procurement options at a price that is less than the market price referent," SCE said.

Pa. PUC Approves Dominion Peoples Settlement Which Opens Door for New POR Filing

The Pennsylvania PUC yesterday approved a settlement in Dominion Peoples 1307(f) proceeding to reconcile purchased gas cost rates which could re-open the door for Dominion Peoples to elect to introduce a Purchase of Receivables program (Only in *Matters*, 6/25/09).

The PUC's Stakeholders Exploring Avenues for Removing Competition Hurdles (SEARCH)

initiative required LDCs to either file a voluntary POR program by March 31, 2009, or include updated cost of service data in their next 1307(f) or base rate proceeding to permit the unbundling of costs related to gas procurement and supply. Dominion Peoples elected not to implement a POR program, and filed cost of service data in the instant 1307(f) review.

The uncertainty over Dominion Peoples' future ownership was cited as one reason the LDC did not wish to commit to a POR program at this time. Parent Dominion Resources has entered into an agreement to sell the LDC to SteelRiver Infrastructure Fund (formerly a subsidiary of Babcock & Brown), with review of the sale ongoing at the PUC. Several parties, but not PUC Trial Staff, have entered into a settlement to approve the sale (*Matters*, 9/7/09).

As only reported by *Matters*, the settlement holds that, within 30 days of a PUC order in its sale application, Dominion Peoples will file either a notice of intent to establish a POR program, or a notice of intent to file an updated cost of service study. If Dominion Peoples elects to offer a voluntary POR program, it will file the plan within 90 days of an order in the acquisition proceeding. If Dominion Peoples does not elect to institute a POR program, the updated cost of service study will be filed at the earlier of its next base rate case, or the annual purchased gas cost 1307(f) proceeding scheduled to be filed on or about April 1, 2011.

Pa. PUC Approves Equitable PGC Settlement Denying Dominion Retail Protests

The Pennsylvania PUC approved, with one modification, a settlement regarding Equitable Gas Company's Purchased Gas Cost filing. The change did not relate to retail choice and involves Equitable's right to retain revenue from a release of firm transportation service.

As previously reported, the settlement denied protests raised by Dominion Retail to the PGC filing (Only in *Matters*, 7/27/09).

Among other things, Dominion Retail raised concern that customer-specific BTU factors, one of which was approved under the settlement, will increase costs for other customers who must suffer under an inaccurate (and likely higher)

conversion factor to make up the difference between the negotiated rate and the "actual" rate of the customer receiving the negotiated, customer-specific rate.

The approved settlement also continues the use of the current retainage rates of 8% for residential customers and 6% for commercial and industrial customers. Dominion Retail has said that the split rate discriminates between residential customers and commercial/industrial customers without justification. Dominion Retail further said that the rate for residential customers is simply too high as a matter of operational fact, since Equitable's actual weighted average retainage rate is approximately 7.09%.

Briefly:

Consumer Energy Solutions, Customer Acquisition Specialists Of America Seek Pa. Licenses

Consumer Energy Solutions applied for a Pennsylvania electric supplier license as a broker/marketer to serve all sizes of non-residential customers in all service areas. Affiliate Customer Acquisition Specialists Of America also applied for a Pennsylvania electric broker/marketer license to serve all sizes of non-residential customers in all service areas.

PUCT Approves NUS Setting ERCOT Nodal Fee

The PUCT approved a non-unanimous stipulation setting the revised ERCOT nodal surcharge at \$0.375 per MWh, to be effective January 1, 2010 (Matters, 8/5/09). Although reluctant to approve the non-unanimous stipulation due to a thin record, the Commission said that giving the financial community certainty regarding the nodal project would be beneficial given the recent turnover in ERCOT's executive posts, with CEO Bob Kahn departing in November and the departure of CFO Steve Byone. As is current practice, the fee will be imposed on QSEs representing generation, though the stipulation commits the Commission to considering an exemption for output from distributed renewable generation.

PUCT to Hold Additional Workshop on ERCOT Forecasting, Scarcity Issues

The PUCT will hold a second workshop on scarcity and forecasting issues, Chairman Barry Smitherman said during a discussion at yesterday's open meeting. The issues arose as Commissioners received a quarterly report from ERCOT, and discussed ERCOT's conservative load estimates which leads it to over-procure resources thereby suppressing prices. Commissioner Donna Nelson noted that such suppressed prices send the wrong signal regarding new generation investment, as noted in the Independent Market Monitor's report (Matters, 8/13/09). Commissioners noted that better forecasting that does not over-commit resources may preclude the need for an administrative scarcity pricing mechanism, which has been proposed in ERCOT stakeholder forums. Smitherman said at this time he does not favor adjusting pricing upward to reflect scarcity that isn't being reflected in the sellers' bids.

Smart Choice Energy Services Receives Pa. License

The Pennsylvania PUC granted Smart Choice Energy Services an electric broker/marketer license to serve commercial (above 25 kW), industrial and governmental customers at PPL and Duquesne Light. As only reported in *Matters*, Smart Choice said it has a minimum threshold of 250,000 kWh annually for electric clients, and 10,000 therms for gas clients. Smart Choice said that in addition to mailings, referrals and cold calling, its marketing plan will utilize various social networking sites (Twitter, Facebook, and LinkedIn) and blogging on energy issues (Matters, 8/10/09).

Pa. PUC Approves Citizens, Wellsboro Rates

The Pennsylvania PUC approved previously filed quarterly updates to the generation supply service rates at Citizens Electric Company and Wellsboro Electric Company. Citizens new commodity rate is 9.5399¢/kWh (Matters, 9/2/09), and Wellsboro's new rate is 8.5294¢/kWh (Matters, 9/3/09).

PUCT Approves Lower CenterPoint Discretionary Service Charges

The PUCT approved CenterPoint Energy's lower meter-related Discretionary Service charges reflecting the progressive reduction in costs resulting from advanced meter deployment. Charges will only be lower for services for premises with (or planned to have) activated remote connect capability. Charges will be unchanged for poly-phase and >200 amp meters. The approved fees for the six affected Discretionary Service charges can be seen in our exclusive 6/15/09 story. The charges had previously been approved on an interim basis.

PUCT Issues Draft Guaranty, Letter of Credit Forms for Comments

The PUCT approved for stakeholder comment Staff's draft form letter of credit, and a draft standard form guaranty agreement, to be used by REPs under new financial certification standards (Only in Matters, 9/21/09).

PUCT Adopts Independent Organization Decertification Rules

The PUCT approved Staff's proposal for adoption containing rules to govern the decertification of an independent organization (currently ERCOT) and the transfer of assets to a successor organization pursuant to PURA §39.151(d) (Only in Matters, 9/18/09).

Maryland Energy Admin. Seeks Additional Constellation-EDF Hearings Citing Amended Transaction Agreements

The Maryland PSC scheduled a status conference today to determine whether additional hearings are needed in its review of EDF's investment in Constellation Energy's nuclear unit after the Maryland Energy Administration and other parties argued that Constellation and EDF did not finalize terms of the transaction until after the close of hearings, citing amendments recently made to the master agreement, operating agreement and power sale agreements included in the transaction. Although Constellation provided drafts of the changes prior to the hearings, MEA called the drafts insufficient. MEA claimed that the amendments provide EDF with greater control over Constellation.

Priority Power Management Reports Higher Earnings

Broker-consultant Priority Power Management generated earnings of \$318,000 for the second quarter of 2009 (ending June 30), an increase of approximately 66% versus the same quarter in 2008, parent Amen Properties said yesterday. The increase in earnings was caused primarily by a 48% increase in revenue driven by a large power reengineering consulting project, as well as lower general and administrative expenses.

World Energy Solutions Brokers GSA Load

World Energy Solutions said it procured 275 million kilowatt-hours of electricity for the Great Lakes region of the U.S. General Services Administration, to supply Illinois and Ohio facilities.

Delaware Proposes Minor RPS Changes

Consistent with recent legislation, the Delaware PSC proposed updating its RPS regulations to reflect that the three-year compliance life applicable to RECs shall be tolled during the period in which a REC is held by the Sustainable Energy Utility, a statutorily defined nonprofit entity that develops and coordinates programs for end-users (Regulation Docket No. 56).

Dominion ... from 1

disclosure will be displayed on the message side of the postcard, in either bold or italic type face, in the same font size used in the body of the message (not including titles or headings) or, if the font size used in the body of the message will not permit the affiliate disclosure to be displayed in a single line of type, in the largest font size that will permit the affiliate disclosure to be so displayed.

If the promotional material is in the form of a letter or other standard letter-sized document, the Dominion logo, if used, shall be displayed on the first page of the letter or document, and the affiliate disclosure shall appear directly above, below, or immediately adjacent to the logo, in either bold or italic type face, in 10-point font size or in the font size used in the body of the message (not including titles or headings), whichever is larger. If the Dominion logo is not used, the affiliate disclaimer shall be displayed

as either a header or footer on the first page of the document, in either bold or italic type face, in 10-point font size or in the font size used in the body of the message (not including titles or headings), whichever is larger.

Additionally, Dominion East Ohio Energy will present all natural gas marketing and solicitation materials intended for prospective non-aggregation residential customers for Staff and OCC review for a period of one year. The review will not apply to marketing materials aimed at existing Dominion East Ohio Energy customers.

The materials shall be submitted to OCC and Staff at least 10 days before scheduled use. If Staff raises any issue regarding the materials, Staff and Dominion East Ohio Energy will discuss changes, and the materials may not be used until affirmative Staff approval. OCC may also provide input on the materials, but Dominion East Ohio Energy is not required to follow any OCC changes nor is OCC approval required for the materials.

As part of the stipulation, Dominion East Ohio Energy will allow all customers who enrolled onto a fixed price product due to the postcard to cancel without paying a termination fee, and inform customers of such ability through a letter. Dominion East Ohio Energy will also remind customers who enrolled onto a variable rate due to the postcard that their product does not include a termination fee, and that they may switch at any time without paying an exit fee.

Dominion East Ohio Energy will also pay \$50,000 to the State of Ohio's general fund as a condition of the settlement. In the event that Dominion East Ohio Energy is found to have violated any Commission rule governing the marketing and solicitation practices of competitive retail natural gas suppliers or the terms of the settlement within one year of its effective date, Dominion East Ohio Energy shall pay an additional \$100,000 into the general fund.

The stipulation is subject to PUCO approval.

Delaware ... from 1

refund any excess customer generation at the end of an annualized billing period, with such payment calculated by multiplying the excess kWh credits by the customer's Supply Service Charges based on a weighted average of the

first block of the summer (June through September) and winter (October through May) Supply Service Charges in effect at the end of the customer's annualized billing period and the preceding 11 billing periods, excluding non-volumetric charges, such as the transmission capacity charge and/or demand charges. If such payment would be less than \$25, the supplier may credit the customer's account through monthly billing.

Currently, customers forfeit any excess generation credit at the end of the annualized period, with suppliers required to make a payment into the state's Green Energy Fund reflecting such excess generation at their avoided cost of wholesale power.

The proposed changes would strike a provision in the current rule which assigns RECs from surplus generation to the electric supplier (with the customer retaining RECs associated with self-generation that they consume). Ostensibly, the revision is meant to grant the customer the right to all RECs, but the proposed language is ambiguous, because while certain language relating to suppliers is struck, the language assigning RECs to customers is the same as under the old rule which only assigned customers RECs from consumed generation. Specifically, the proposed language states, "The Customer shall retain ownership of RECs associated with electric energy produced *and* consumed by the Customer" (emphasis supplied). The term "and" could be read as requiring two conditions necessary for the customer to retain RECs: the customer must produce the energy and the customer must consume the energy, which is what the same language means under the current rule.

While the proposed rule does strike the language, "The RECs associated with [net excess generation] convey to the purchasing Electric Supplier," nothing in the proposal explicitly states where these RECs from surplus generation now go in the absence of this provision. While PSC's broadly states in an order accompanying the proposed rule that the changes, "allow customers to retain ownership of 'renewable energy credits,'" that policy isn't clear from the draft language.

The proposed rule would also add a provision governing net metering for plug-in electric

vehicles. Per the draft rules, a retail electric customer with a Grid-Integrated Electric Vehicle shall be credited in kilowatt-hours for energy discharged to the grid from the Grid-Integrated Electric Vehicle's battery at the same kilowatt-hour rate that the customer pays to charge the battery from the grid. Excess kilowatt-hours would be governed by the same net metering provisions for any other type of distributed renewable generation.