Energy Choice Matters

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ICC Orders Measures to Mitigate Anti-Competitive Impact of ComEd Smart Grid Pilot

Commonwealth Edison must inform all customers within its smart grid pilot footprint of the availability of retail choice, and also must continue to pay pilot customers their incentives if they switch to a competitive supplier, the Illinois Commerce Commission ruled in a final order on ComEd's initial advanced metering pilot program.

The initial ComEd pilot will include 131,000 meters and a host of experimental pricing tariffs and in-home customer devices (Matters, 6/1/09). The Illinois Competitive Energy Association raised several concerns about the program's discriminatory impact on competitive supply customers, including the removal of in-home devices if customers switch to an alternative supplier, and the non-payment of the customer pilot incentive if the customer switches (Only in Matters 9/9/09).

A proposed order rejected all of ICEA's recommended measures to mitigate the anti-competitive impact (Only in Matters, 9/29/09). However, the ICC reversed the draft's findings and adopted several measures meant to ensure that the smart grid pilot does not harm competitive suppliers or the retail market.

Among them is that ComEd will be required to affirmatively advise all customers in the smart grid pilot footprint (including customers not on the pilot) of their electric supply options. "This is reasonable given the extensive promotional communications that ComEd will be making in support of its pilot program," the Commission said. ICEA had noted that the Commission had imposed a similar requirement on ComEd relating to its optional real-time pricing tariff, which, as the smart grid pilot does, strays into value-added products that depart from basic default service.

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ICC Launches Retail Natural Gas Shopping, Education Website

The Illinois Commerce Commission has launched its retail natural gas shopping website (http://www.icc.illinois.gov/ags/products.aspx) which allows customers to compare competing supplier offers and the LDC rate.

The site includes offers for residential and small commercial customers at Nicor, North Shore Gas and Peoples Gas, the three LDCs offering choice. A companion site also includes a tool that allows customers to estimate their average monthly gas bill for the competitive supply products and their LDC (www.icc.illinois.gov/ags/consumereducation.aspx).

Historical LDC supply rates by month are listed dating back to January 2007.

Starting in January 2010, and on a quarterly basis thereafter, the ICC will list on the site a summary of all consumer complaints made against alternative gas suppliers related to marketing and sales, contracts and billing, and customer service.

The website also includes various other consumer education materials and choice information, such consumer rights, obligations of alternative suppliers, the components of the natural gas costs on monthly bills, important questions to ask suppliers, steps to compare products and prices, and procedures to address complaints.

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NRG Urges Md. PSC to Dismiss MAPP CPCN Petition, Cites Potential for New Contract-Backed Generation

NRG Energy urged the Maryland PSC to dismiss the CPCN application of the Mid-Atlantic Power Pathway (MAPP), claiming that the application is deficient and that the PSC is not authorized to conduct its review of the CPCN in phases as requested by Pepco, Delmarva, and Baltimore Gas and Electric. The MAPP line would run from Northern Virginia across the Chesapeake Bay to the Delmarva Peninsula, provisionally passing through Vienna, Md., the site of an NRG oil-fired plant.

Moreover, NRG said that a phased review of the transmission line would lead to stale information on which the Commission cannot judge the need for the line, as load and supply forecasts will be impacted by increased demand response, greater energy efficiency participation from more favorable market rules, new in-state generation, and construction of other transmission projects.

"Furthermore, new in-state generation that Maryland desperately seeks may be just around the corner be it from the utilization of long-term Power Purchase Agreements or increased capacity payments or other financial incentives to spur construction of new generation," NRG claimed.

NRG noted that PJM has already recommended changes to the original MAPP project (eliminating the Indian River to Salem segment), and "one should expect that trend to continue," NRG said

Among several deficiencies in the MAAP application is the lack of a specific route as required by statute, NRG said. NRG argued that statute and COMAR require the PSC to evaluate and weigh all factors enumerated in statute and code when reviewing a CPCN; however, NRG said that the application's lack of a specific route prevents the PSC from considering economic, esthetic, historical site, and water pollution issues as required by statute.

NRG also said that COMAR expressly limits the use of a bifurcated, phased process to evaluate a CPCN to generation plants, and does not allow a phased process for transmission assets.

Although the MAPP line was not cited in the PSC's order in Case 9149 ordering the procurement of demand response by the utilities to as insurance against the delay in the construction of needed transmission lines (PATH and TRAIL), the PSC has generally said that delays in reliability projects deemed necessary for reliability by PJM (as MAPP is by 2014), could prompt the Commission to procure additional resources, including generation, outside of the normal SOS solicitation process, through ratepayer-backed contracts.

NRG has said that new generation at its Vienna site would be a prime candidate for any such ratepayer-backed contracts, suggesting that a long-term contract would be needed to support either new solar, biomass or gas-fired capacity built at the site. The MAPP line, provisionally, would pass through Vienna.

Md. PSC Staff Supports Mandatory TOU Pricing for Mass Market Customers at BGE

Maryland PSC Staff is supportive of Baltimore Gas & Electric's proposal to move all residential customers onto Time of Use (TOU) generation prices starting June 1, 2012 as part of its proposed advanced metering program, as Staff said that the TOU prices reinforce the message of using electricity efficiently.

As only reported in *Matters*, BGE proposed a two-tier TOU rate applicable June through September as the default (and only bundled) rate available for residential customers, once smart meter installation is complete (Only in Matters, 7/14/09). The TOU prices (with 2 p.m. through 7 p.m. on weekdays constituting the peak) would be accompanied by a Peak Time Rebate program as well, with the Peak Time Rebates available to all distribution customers regardless of retail supplier, except in cases where such shopping customers were already in a similar load reduction program with their alternative supplier.

The TOU generation rates would be based on future data and supplies, but if they were implemented today, summer generation rates would be 16.582¢/kWh on peak, and 10.690¢/kWh off-peak, with non-summer rates a flat 10.690¢/kWh.

"The proposed rates more accurately reflect the true cost of energy (i.e., the market price for electricity is more expensive during summer peak periods than non-peak periods)," Staff said in endorsing the default TOU rates.

Staff noted that, based on preliminary bill impact information, the smart energy pricing (SEP) program (as the combined TOU and peak rebates are known), "does not significantly disadvantage most customers that do not change their behavior in response to the new SEP rate schedule."

Staff believes that the average residential usage customer will realize some benefits from the smart energy pricing rate even without actively participating in the program because all residential customers within BGE's service territory will benefit from the reduced load profile and subsequent reduced energy and capacity prices. Staff noted that customers who actively respond to prices will see savings sooner, however, upon implementation in 2012, while customers who do not respond to prices will not see savings until 2013.

Dynamic pricing is necessary to achieve the state's EmPower Maryland demand reduction goals, Staff added.

Staff said that because default TOU rates on a ratepayer-wide basis are new, ongoing precautionary analyses should be conducted to ensure that the pricing mechanisms are working appropriately, sustaining a cost-effective program and maintaining a positive benefit for ratepayers.

BGE has said that it expects to propose a time-of-use mechanism with peak time rebates as the default rate for small commercial customers (rate schedules G and GS) as well.

The Maryland Energy Administration noted several benefits of BGE's proposed TOU pricing, but said customers should be able to opt-off of the rate due to the lack of available information to customers under BGE's smart metering system.

"[T]here are limited supporting mechanisms that would permit the customer to effectively manage their energy use in a timely fashion," MEA said, noting that competitive suppliers and curtailment service providers will only be provided with their mass market customers' hourly usage on a day-after basis.

Customers will not be receive real-time or near real-time TOU usage or bill information via the in-home devices due to the meter's inability to calculate TOU usage and bill information within the meter, MEA said.

MEA said that dynamic or real-time pricing is a critical element that is absolutely essential for a smart grid initiative, and that BGE's program fails in this regard.

"Without real-time TOU information, customers will not be able to make fully informed decisions about their energy consumption habits," MEA added.

BGE's filing should be amended to require the ability of customers to see real-time prices by 2014, MEA recommended.

"Until such time as BGE has implemented a comprehensive consumer education effort and is able to provide real time energy pricing and usage to consumers, it will be important to maintain the standard residential rate structures that currently exist as a potential 'opt out' for concerned customers," MEA argued.

MEA agreed that, long-term, allowing customers to opt out of TOU pricing and receive service under one of the current tariffs would impede progress in achieving the goals of the TOU tariff, such as reduced demand and usage, and the accompanying lower prices.

The Office of People's Counsel, however, opposed default TOU pricing, and said it should only be offered on a voluntary basis.

"The change from a constant per kWh rate for generation costs to a time-varying rate will have the effect of significantly reallocating the cost burdens among residential customers. Higher on-peak rates will put burdens on customers who cannot move usage off those peak periods, including most low-use customers of all incomes," OPC said.

OPC reported that almost one-third of BGE residential customers have monthly usage below 530 kWh, and as many as 20% have usage under 380 kWh per month. About 10% have usage under 220 kWh per month. "At these low levels, one cannot reasonably expect customers to cut usage even further," OPC said.

AARP similarly opposed default TOU pricing, citing the risk to vulnerable customers for whom the loss of electricity poses a health or safety risk.

Elderly customers relying on air conditioning to prevent hyperthermia and customers with medical needs for oxygen equipment cannot reduce usage simply in response to a high TOU rate, AARP said.

"There is likely to be a significant number of residential customers that will have to incur higher summer bills under this new rate structure and the potential for offsetting the costs of AMI and the implications of the time-based rate structure by earning a [Peak Time Rebate] is questionable," AARP said.

AARP noted that a BGE pilot, "clearly documented that peak load demand results were obtained by offering the [Peak Time Rebate] to customers without changing their underlying rate structure."

Furthermore, as customer behavior in response to TOU rates will essentially provide BGE with a capacity and energy resource (which will be sold into various PJM markets), AARP said that BGE must conduct an integrated portfolio planning process to manage these resources.

AARP noted that BGE will credit such revenue to all delivery customers, rather than applying the resources to its SOS supply needs.

AARP recommended that the Commission require BGE to integrate its efficiency and demand response responsibilities and impacts into the procurement of SOS, arguing that BGE should be ordered to undertake a formal long term procurement plan for SOS products and contracts.

PUCO Approves Dominion Retail Settlement

The Public Utilities Commission of Ohio approved a settlement among Dominion East Ohio Energy (an Ohio trade name for Dominion Retail), 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, 9/25/09).

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.

As part of the settlement, Dominion Retail will pay $50,000, and agrees to abide by certain affiliate disclosure standards for its promotional materials. *Matters* presented an in-depth review of the settlement's terms in our 9/25/09 issue; those terms were accepted in their entirety.

Briefly, the stipulation sets specific language, font, and logo placement requirements for Dominion East Ohio Energy marketing materials. Dominion East Ohio Energy will also present marketing materials intended for prospective customers to PUCO Staff and the OCC for review.

Dominion East Ohio Energy will allow customers who signed up onto a fixed rate plan in response to the postcard to cancel at any time without a termination fee. Customers who chose a variable rate product in response to the postcard will receive a letter reminding them that they can cancel at any time without penalty, as the variable product does not include an exit fee.

Conn. DPUC Approves MXenergy Settlement

The Connecticut DPUC approved a settlement among MXenergy, DPUC Staff and consumer advocates under which MXenergy will make several changes in its internal processes, but pay no fine, in response to a series of complaints in the summer of 2008 resulting from delayed renewal notices and ambiguous welcome letters received by customers (First in Matters, 6/23/09).

The settlement, first reported in *Matters*, also requires MXenergy to revise its third-party verifications (TPVs) and file various reports with the DPUC. A complete review of all of the stipulation's terms was included in our 6/23/09 issue; the terms were accepted in their entirety.

Briefly, MXenergy will revise its TPVs so that they include specific language to verify that customers understand when a specific price ends and, if applicable, a new rate begins. The new TPVs will clearly inform customers of any post-introductory price period, and will also inform customers of what renewal information they will receive and when to expect it.

Among other changes in its marketing, MXenergy will require newly hired sales representatives to pass a certification test. MXenergy's quality assurance department will expand current monitoring of telesales and door-to-door sales, and will make a "best effort" to contact all door-to-door sales customers, both residential and small commercial, to review the solicitation.

MXenergy has offered all affected customers rate relief payments, special discounted rates, or an extension of the initial, lower introductory rate. A total of 8,822 customers at both UI and CL&P received rate relief payments accumulating to $2.1 million, the DPUC said.

Briefly:

DPUC Grants First Choice Energy, LLC Aggregator Certificate

The Connecticut DPUC granted First Choice Energy, LLC an electric aggregator certificate to serve commercial, industrial, municipal and governmental customers (Matters, 7/23/09).

Broker Reflective Energy Solutions Seeks Ohio Gas, Electric Licenses

Start-up Reflective Energy Solutions applied for an Ohio natural gas aggregator/broker license to serve all sizes of commercial and industrial customers at all four LDCs. Reflective Energy Solutions also applied for an Ohio electric aggregator/broker license to serve commercial, mercantile and industrial customers in all service areas. President Eric Zimmerman spent three years at Constellation NewEnergy as director of business development, focusing on developing CNE's mid-market presence in New York and New Jersey. Previously Zimmerman was at Econnergy.

Great Lakes Energy Seeks Ohio License

Great Lakes Energy applied for an Ohio electric aggregator/broker license to serve all classes of customers, including residential, at the FirstEnergy utilities, the AEP utilities, and Duke Energy Ohio.

UMG Inc. Seeks Maine Electric License

Northeast broker UMG Inc. has applied for a Maine electric aggregator/broker license to serve all sizes of non-residential customers at Central Maine Power and Bangor Hydro-Electric.

Direct Announces Stark County Municipal Aggregation Rates

Direct Energy announced rates for its municipal natural gas aggregation with Stark County, Ohio. Under the aggregation, customers within the Dominion East Ohio service territory will pay a price of $6.978 per mcf for the December 2009 through August 2010 bill cycles. Customers who live within the Columbia Gas of Ohio service territory will pay a price of $0.7144 per ccf for the November 2009 through July 2010 bill cycles.

ICC Dismisses RBS Electric Application

The Illinois Commerce Commission dismissed The Royal Bank of Scotland's alternative retail electric supplier application due to a deficient filing, including a lack of information on how RBS would meet new renewable standards under Public Act 95-1027, and the lack of a description of how attached financial information met the applicable criteria (Only in Matters, 9/11/09).

PUCT Opens Docket to Determine Panhandle CREZ Financial Commitment

The PUCT has opened docket 37567 for Staff's petition for the determination of financial commitment for the Panhandle A and Panhandle B Competitive Renewable Energy Zones.

ComEd ... from 1

Per the Commission's order, ComEd shall inform potential pilot program customers of the availability of similar service from retail suppliers, and shall indicate that a decision to take part in the ComEd pilot program shall not affect the customer's ability to take service from a retail supplier in the future.

Additionally, the ICC held that a customer who switches to competitive supply in the middle of the advanced metering pilot shall be allowed to keep their pilot participation incentives and in-home devices. "A customer that has been promised a $50 payment/credit under Rider AMP-CA in return for participating in the pilot and completing an initial and final survey should be entitled to that payment/credit even if the customer elects to take service from a [retail supplier] during the duration of the pilot," the Commission said.

The decision to remove any equipment provided by ComEd during the pilot upon migration to a retail supplier shall lie with the customer, the ICC added. To the extent that the installed equipment can be utilized by the customer for its energy service taken from a retail supplier, ComEd shall modify the equipment to enable that usage, to the extent practical, the Commission ordered.

With such protections in place, the Commission approved ComEd's requested waiver of the Integrated Distribution Company code, which normally prevents marketing designed to keep customers on bundled supply service. The Commission adopted Staff's recommendation that ComEd's waiver implementation plan shall include the statement, "The Company will not act to discourage customers from switching to [retail electric supplier] service."

The Commission denied other relief sought by ICEA, including the subsidization of suppliers' behind-the-meter offerings in an manner equal to the subsidization of ComEd's offerings under the pilot, and ICEA's request for the elimination of hold harmless provisions in the pilot. Additionally, the Commission refused to link approval of the pilot to the implementation of utility consolidated billing and Purchase of Receivables.

ComEd will be allowed to offer an inclining block rate under the pilot, but, in response to Staff concerns, the Commission ruled that a customer's usage in the pilot should be weather-normalized over five years, rather than only one.

Aside from the inclining block rates, the various pilots will combine one of several forms of pricing (flat rate; increasing block rate, Time of Use rates, day-ahead Real-Time Pricing, day-ahead Real-Time Pricing with Critical Peak Pricing, or day-ahead Real-Time Pricing with Peak Time Rebates) with one of several technology options (none, website with hourly information; website plus an in-home display; website plus an advanced in-home display with more information and controls; or website plus in-home display plus a programmable controllable thermostat).

The pilot is to be fully implemented in early summer 2010. If ComEd's application for $175 million in federal stimulus funds is approved, the number of customers that receive new smart meters could more than double from 131,000 to 310,000 customers.

Pilot Expansion

In a separate proceeding, ComEd is seeking to deploy an additional 50,000 smart meters in Chicago, with pilots focusing on dynamic pricing and the provision of in-home devices. The expansion was severed from ComEd's original application adjudicated yesterday.

ICEA has raised competitive concerns regarding the additional pilot, under which ComEd would competitively bid out customer-side applications for up to 5,000 customers to competitive suppliers.

Though welcoming ComEd's innovative thinking in opening the pilot to competitive suppliers, ICEA said that the limited customers to be bid out misses an opportunity to truly test the proposed rates and technological advances within the competitive landscape. ICEA recommended that 40,000 to 50,000 customers should be bid out to competitive suppliers.

In its testimony, ICEA said that it understood that ComEd's POR and utility consolidated billing tariffs will be filed "very soon" and will have an implementation date of no later than December 1, 2010, which will be prior to the start of the expanded pilot and will facilitate retail supplier participation in serving residential customers.

ICEA suggested that ComEd could issue an RFP seeking bids from certified retail electric suppliers to serve blocks of customers in the pilot. ICEA recommended a block of 10,000 customers. The winning bidders would provide service to customers on an opt-out basis, as under ComEd's proposal. Therefore, a winning bidder for a single block would serve up to 10,000 customers, but would serve greater than that number if it won several blocks.

Illinois Gas ... from 1

The site was developed in conjunction with the Attorney General, the Citizens Utility Board, alternative gas suppliers and the LDCs. The site was required by recent legislation which imposed a variety of new consumer protection measures on competitive suppliers, such as limitations on termination fees, a right of rescission, and third party verification of small customer door-to-door sales. A complete review of the law (Public Act 95-1051) was included in our 4/13/09 issue.