

Energy Choice

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REPs Report 52% of Customers on Deferred Payment Plans Default on Obligations

Some 52% of Texas customers on deferred payment plans defaulted on those plans, a group of REPs reported in comments to the PUCT regarding customer disconnection protections. The figure was based on aggregate data from some of the jointly filing REPs for the period January 2008 through June 2009, with the data encompassing 22% of ESI IDs in ERCOT. The Joint REPs include Amigo Energy, CPL Retail, Direct Energy, Energy Plus, First Choice Power, Gateway Energy Services, Gexa Energy, Green Mountain Energy, Stream Energy, the Texas Energy Association for Marketers, and WTU Retail.

Total uncollectibles of the reporting REPs were over \$200 million, or 4% of gross revenue, during the 19-month period. That compares to bad debt of 0.125% to 0.675% experienced by the integrated utilities prior to the start of competition in Texas.

The Joint REPs also reported that 38% of residential customers who switched REPs during the 19-month period left an unpaid balance with their former REP which was unable to be recovered.

While the Texas market was initially designed to facilitate customer switching, the joint REPs said that the market's maturity means now is the time to hold customers accountable for their electricity use. Specifically, the joint REPs said that customers should be prevented from switching during any time in which they owe an outstanding debt to their REP (and not limited to outstanding debts from deferred payment plans). Joint REPs said such a policy would close an existing "loophole," and would treat all customers in Texas equally, since customers at the integrated utilities or municipals

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ICC Posts Application for Agents, Brokers and Consultants

The Illinois Commerce Commission has posted licensing requirements and instructions on its website for agents, brokers and consultants who wish to procure and sell retail electricity to Illinois customers.

Statute defines an ABC, with limited exceptions, as an entity that "attempts to procure" and "attempts to sell" electricity. As only reported in *Matters*, the Commission defined ABCs under the statute broadly, and said a contractual relationship to procure electricity on the customer's behalf is not required in order for an entity to be considered an ABC under Illinois law (Only in *Matters*, 10/1/09). Examples of activity governed by the ABC act include preparing solicitations of offers, notifying potential bidders of the solicitation, or determining the results of a solicitation on behalf of a customer; or soliciting customers, making offers, or preparing contracts on behalf of a supplier.

The ICC's website (www.icc.illinois.gov/Electricity/ABC.aspx) includes a sample application for licensing, bond information, and the administrative code, Part 454, that outlines the licensing requirements and a code of conduct. Among other things, the code of conduct requires ABCs to disclose, in writing, their anticipated remuneration from the sale of electricity to the customer, with limited exception (see our earlier 10/1 story for complete analysis, and which first reported the conditions which ABCs are subject to).

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Mass. Suppliers May Post Unlimited Offers in Referral Program

Competitive electric suppliers in Massachusetts will be able to offer an unlimited number of products through the electric distribution companies' bill insert and online referral programs, the Massachusetts DPU said in an order on clarification publicly posted yesterday.

As only reported in *Matters*, the DPU previously adopted a referral program which requires the utilities to post competitive supplier offers on a dedicated webpage, and in bill inserts every four months (Only in *Matters*, 9/2/09). The DPU declined to impose a standard referral product under the program, and opened the program to all types of products.

Without a standard product, Western Massachusetts Electric Company asked for clarification, noting that the DPU made no mention on the amount of supply offers a retailer could make. WMECO reported that additional offers would increase the size of the bill insert and increase postage costs (Only in *Matters*, 9/24/09).

The DPU granted clarification, and held that suppliers may list an unlimited number of offers through the referral program. Disagreeing with WMECO, the DPU said that a multiplicity of offers is not likely to lead to confusion, but will instead offer customers more choices.

Distribution companies shall be allowed to recover any increased postage costs from participating competitive suppliers at a reasonable incremental cost. The DPU recommended that the utilities allocate the reasonable incremental costs of increased postage proportionately among the participating competitive suppliers, pro rating the costs by the number of offers each has provided for inclusion in the bill insert.

The DPU also clarified that supply offers to be listed in the bill insert must be submitted to the utility in writing electronically by the first day of the month preceding the bill insert month. Utilities had noted that the DPU's order applied the same deadline, five days, to both offers listed on the referral webpage and on the bill insert, arguing that a five-day turnaround was inadequate to produce the bill inserts.

DPUC Should Not Use MSS Load Data for RPS Compliance, TransCanada, CL&P Say

The Connecticut DPUC should not use NEPOOL GIS Report "MSS Load Data" to determine load serving entities' compliance with the RPS, TransCanada Power Marketing and Connecticut Light and Power said in separate comments on a draft DPUC decision regarding RPS compliance, because the MSS Load Data report ignores post 90-day adjustments (Only in *Matters*, 10/19/09).

CL&P noted that MSS Load Data excludes Requests for Billing Adjustment (which is commonly referred to as post 90-day resettlements), in which load data values are provided to ISO New England after the Data Reconciliation Settlement (90 day) submittal period, if a party satisfies specific eligibility criteria as defined in ISO-NE's market rules.

Excluding such post 90-day adjustments could result in a situation in which an LSE's load obligation (and its associated RPS obligation) in the GIS System could be different than its actual final load obligation as reflected in the ISO-NE market settlement system, CL&P said.

TransCanada noted that CL&P had included a 33,000 MWh adjustment in TransCanada's 90-day true-up for June 2008. After being alerted by TransCanada, CL&P agreed that the adjustment was made in error and reversed the adjustment in a post 90-day true-up. If RPS compliance is determined solely on the MSS Load Data reports, which exclude post 90-day true-ups, TransCanada would have been penalized by as much as \$165,660 (the total alternative compliance payments that TransCanada would be required to make according to the 2008 RPS requirement associated with 33,000 MWh).

Additionally TransCanada noted that monthly meter adjustments are recorded in the GIS in the period in which they occur and not in the actual period needing the adjustment. Accordingly, it is quite possible to have large 90-day true-up adjustments recorded in GIS in a compliance year different than the compliance year for which the load adjustment is applicable.

TransCanada recommended that the Department determine RPS compliance based

on the loads reported on GIS My Disposition Reports, which TransCanada said is the source used by regulatory agencies in other New England states with RPS requirements.

In the alternative, the DPUC should allow for adjustments to the MSS Load Data reports based on the post 90-day true-ups, TransCanada said. CL&P suggested that an entity's load obligation, for purposes of calculating its RPS obligation, should include any post 90-day load resettlements accepted by ISO-NE. In recognition of the fact that a cut-off must be imposed on when a post 90-day ISO-NE market resettlement can impact an entity's load obligation and its associated RPS obligation, CL&P said that a cut-off for such data could be set at five months prior to the date on which an entity's annual RPS compliance filing must be submitted to the Department.

CL&P Reports New Problem Related to C2 Billing System Implementation

Connecticut Light and Power recently identified a potential "new" issue regarding problems implementing its C2 customer billing system, as some meters installed in the field may not have associated C2 billing accounts, CL&P said in a letter to the DPUC.

CL&P has identified one customer that had a meter installed in May 2007 but had not been billed for usage since the time of installation. In this instance, a consolidated meter was installed during a major renovation and system upgrade to the customer's facility and three original meters were removed. Due to "human and system errors," the consolidated meter was not set up in the Legacy billing system and subsequently not in the C2 system. As a result, the customer was not billed for usage from May 2007 though August 2009.

To determine if there are other similar instances, CL&P developed a new report that identifies meters with register reads that do not have associated customer accounts, which are required for billing. CL&P has completed a preliminary review of the 630 meters identified in the report. To date, 129 meters have been determined to have no billing impacts. These meters do not have an associated account

primarily due to timing issues associated with meter exchanges and/or the meter type was confirmed as non-billable. CL&P said that 134 meters are pending additional system and field reviews, and 367 meters have been flagged for further monitoring as preliminary results indicate that they are related to timing issues and/or there has been no incremental usage over time.

The DPUC has requested additional information from CL&P regarding this new issue.

D.C. PSC Denies Change to Automatic Solar Derate Factor

The District of Columbia PSC denied a petition from Sol Systems LLC to increase the derate factor applied to solar energy facilities when calculating REC production from systems electing to use automated estimates rather than actual production (Only in Matters, 6/11/09).

Rather than submitting actual production data to the PSC, solar facilities under 10 kW may elect an "automated production" process administered by PJM GATS to determine their output, which estimates the energy production (and thus REC production) based on a unit's size, location, vertical tilt, and azimuth. The automated process saves system owners a considerable amount of time in terms of uploading energy production for each individual system.

The current derate factor under the automated production system is 0.77 (as set in PJM GATS), which downgrades estimated energy production by 23%. The derate factor is a measure of the loss of energy within a solar energy system upon the transfer of energy from direct current (which is how electrical energy is produced in a solar module) to alternating current (which is how electricity is transported generally).

Sol Systems argued that a loss of 8-10% is a far more accurate estimation, and asked the PSC to increase the derate factor to 0.90-0.92 to account for the fewer losses.

However, the PSC said that Sol Systems offered nothing more than anecdotal evidence and denied the petition.

Briefly:

U.S. Gas & Electric Seeks Md. Gas License

U.S. Gas & Electric filed for a Maryland natural gas supplier license to serve all customer classes at Baltimore Gas & Electric. USG&E, which has approximately 30,000 customers, would market under the name Maryland Gas & Electric, consistent with its use of trade names in other states.

Public Power & Utility Receives Expanded Maine License

The Maine PUC granted Public Power and Utility an expanded competitive electricity provider license to serve residential and small commercial customers throughout Maine, in addition to its current authority to serve medium and large non-residential customers (Only in Matters, 10/21/09).

Pa. Grants Secure Energy Solutions Broker License

The Pennsylvania PUC granted Secure Energy Solutions LLC an electric broker/aggregator license to serve all sizes of commercial, industrial, and governmental customers in all service areas.

GDF Suez Partners with Comverge to Offer Customers Demand Response Products in PJM

GDF Suez Energy Resources NA said it has expanded its partnership with Comverge to offer Suez's customers in PJM demand response solutions. Suez had already partnered with Comverge (through its Enerwise subsidiary) to offer demand response to its customers in ERCOT, NEPOOL, and the New York ISO. Additional markets and products are being explored, Suez said. Suez had previously partnered with EnergyConnect to offer demand response solutions in PJM.

Constellation NewEnergy Signs 178 Customers as Part of Boston Aggregation

Constellation NewEnergy said it recently signed 178 businesses to an aggregated electricity supply agreement for 117,000,000 kilowatt-hours of electricity through the Boston Buying Power pool administered by Taylor Consulting

and Contracting. Constellation said it is serving more than 400 businesses in total through the Boston Buying Power program, launched just under a year ago. Taylor Consulting holds auctions every 45 days for various groups in the pool, and also offers energy management and efficiency services to pool members.

DPU Approves National Grid Utility-Owned Solar

The Massachusetts DPU approved National Grid's proposal to build 5 MW of utility-owned solar under the Green Communities Act. Energy, capacity, or RECs will be sold into the market, with proceeds credited to all distribution customers. Costs will be paid on a nonbypassable basis.

PG&E Signs 250 MW Contracts with NextEra, Abengoa

Pacific Gas & Electric has signed a contract for 250 megawatts of solar thermal power from NextEra Energy Resources, to be sourced from NextEra's proposed Genesis Solar Energy project in Riverside County, Calif. The project is to be built in two 125-MW phases, coming online in 2013 and 2014, respectively. PG&E also signed a contract for 250 MW of solar power from Abengoa Solar's Mojave Solar project in San Bernardino County. The project is scheduled to become fully operational by late 2013.

ProLink Energy Brokerage Seeks Texas Aggregation License

ProLink Energy Brokerage applied for a Texas aggregator certificate to serve residential, commercial and industrial customers.

Ontario Market Surveillance Panel Posts Draft Paper Explaining Market Monitoring

The Ontario Market Surveillance Panel has posted a draft for public comment detailing evaluative criteria and processes for monitoring bids and offers in the IESO-administered electricity markets. The document, available on the Ontario Energy Board website, does not signal a new approach to market surveillance by the Panel, but is intended to explain how the Panel determines if market power has been exercised or abused.

RBS Seeks Ontario Wholesale Licence

The Royal Bank of Scotland has applied to the Ontario Energy Board for an electricity wholesaler licence.

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and cooperatives cannot avoid payment simply by switching providers.

Several consumer advocates, however, opposed any restrictions on the customer's ability to switch, including barriers such as termination fees. Rep. Sylvester Turner, the Office of Public Utility Counsel, Texas Ratepayers Organization to Save Energy, Texas Legal Services Center, AARP Texas and other consumer groups, filing jointly, recommended a cap on termination fees of \$100 and proration of all termination fees over the life of the product.

The consumer advocates argued that any restriction on switching harms competition, and said that REPs may mitigate potential bad debt through the use of security deposits, late payment fees, and disconnections.

The Joint REPs, however, noted that deposits are limited to the sum of the next two months' expected billings, or 1/5 of annual billings. REPs, ignoring any extensions from deferred payment plans or weather or other moratoriums, face a minimum of 81 days of providing supply from on-flow date to move-out, the joint REPs said.

Reliant Energy, however, opposed prohibiting customers from switching if the customer has defaulted on a deferred payment plan. Reliant said that less than 1% of customers are on deferred payment plans, and noted that developing market software and processes to implement the switching prohibition would incur significant time and expense. Reliant also said that a database would be needed to implement the switching prohibition, similar a proposed bill payment database, with Reliant arguing the Commission lacks authority to implement either database.

Consumer advocates argued that REPs have not demonstrated that termination fees are required by customer churn, as they claimed that REPs which are long on power due to churn can, "offload [power] or transfer it to another customer." The consumer advocates do not

address a situation, cited in several of the REPs' comments, in which the forward power secured by REPs to serve a fixed price customer who leaves the REP is priced higher than current market prices, meaning any sales into the spot market will be for a loss, and that using the power to meet another customer's demand will mean paying more for power than what is available in the market.

Early termination fees should be waived from June 1 through September 30, the consumer advocates added.

REPs opposed any intervention into the amount and administration of termination fees, arguing that the market will respond to customer preferences. TXU Energy cautioned that any limit on termination fees will force REPs to either raise per kilowatt-hour rates to account for increased migration risk, or to cease offering fixed price term products. Reliant Energy agreed that prohibiting termination fees would amount to a de facto prohibition of term products. Even a summer-only termination fee moratorium would lead to REPs limiting their contracts to a maximum of nine months, Reliant said, so that REPs aren't exposed too holding excess power due to churn during the summer if a customer leaves and is not required to pay a termination fee. Should the Commission elect to waive termination fees in the summer, TXU suggested that the Commission examine reimbursing REPs.

Levelized and Deferred Payment Plans

Regarding levelized payment plans, the consumer advocates argued that all customers should be eligible for the programs, even if they are currently delinquent in their bills. True-ups should be quarterly, consumer advocates suggested, and customers should be provided three months to pay any true-up.

Consumer advocates further said that all customers, regardless of payment history, should be eligible for a deferred payment plan, which should cover at least five months (rather than three). REPs opposed any mandatory extension to five months, and most said that REPs should not be required to offer a deferred payment plan to a customer that defaulted on a prior deferred payment plan.

Reliant also said that while the current qualification procedures for deferred payment

plans work for customers with 12 months of billing history (with REPs not required to offer deferred payment plans to customers with more than two disconnect notices in such time), the rules are not appropriate for customers with shorter bill histories, Reliant said. Reliant noted that the current rules could allow a customer to sign with a REP, be subject to two disconnect notices in their first two months, but then still be eligible for a deferred payment plan in the next month. Reliant suggested that deferred payment plans only be mandatory for customers with at least six months of payment history and no more than one disconnect notice in such time.

Reliant also suggested that in the summer, REPs should be required to offer deferred payment plans to all low-income customers regardless of prior disconnect notices provided that (1) the customer initially pays 50% of the outstanding balance and (2) the customer has not defaulted on a deferred payment plan in a prior year. The terms are similar to legislation proposed in the 81st session, except the initial payment is higher at 50%.

The consumer advocates asked that REPs be required to inform customers of the Lite Up Texas discount program four times per year, through a bill insert or separate mailing and not only through an on-bill message, which the advocates said can be overlooked. Additionally, the advocates said that REPs' telephone systems should include recorded messages regarding the Lite Up Texas program which play when the customer is on hold. Reliant and other REPs opposed any expansion of the current requirement of two Lite Up notices.

Oncor said that the Commission should consider requiring REPs to provide more information to customers on critical care than simply a notice in the terms of service as is required now. TXU asked that REPs be removed as the middle man in the critical care application process.

Reliant recommended that the Commission limit the customer's use of the "ill and disabled" protection from disconnection to no more than twice in a 12-month period.

Prepaid Service

The Steering Committee of Cities Served by Oncor alleged that products from several prepaid

providers "appear to be a violation of the Commission's rules," claiming that set-up fees charges by the REPs, imposed on the customer if the customer does not fulfill a minimum term, constitute termination fees. The Oncor Cities claimed that the fees appear to violate PUC Subst. R. §25.498(c)(13). While §25.498(c)(13) does prohibit the imposition of termination fees for prepaid service governed by that subsection, §25.498 is expressly limited to prepaid service which uses an in-home customer device or system. Though the Cities did not cite any REPs by name in their comments, they referenced an August 27 letter from Rep. Turner which cited several prepay providers that are not using the in-home device, and to whom §25.498 does not apply. Turner's letter, in fact, does not allege the termination fees violate §25.498, but rather alleges that the prepaid products are variable rates and thus not permitted to carry a termination fee per §25.475.

Reliant Energy also cited §25.498 in its comments, noting that it essentially prohibits prepaid providers using an in-home device from offering a fixed rate term product, since those REPs are unable to collect an early termination fee to mitigate their risk of forward power purchases. Reliant said that REPs should be permitted to offer a fixed price prepaid service which includes a termination fee.

Illinois ... from 1

Lower Electric, LLC and Your Choice Energy, LLC applied for Illinois electric broker licenses yesterday, though their applications were not yet publicly available. Lower, if granted a license, would be subject to an immediate one-month suspension of the license due to a prior ICC order regarding a code of conduct violation (Only in Matters, 8/27/09).