Energy Choice Matters
November 24, 2009

Direct Energy Enters PPL Residential Market with Three Term Products

As expected, Direct Energy announced it will immediately commence marketing to residential customers at PPL, attracted to the territory by Purchase of Receivables and similar market enhancements as well as favorable headroom caused by PPL's laddered procurements conducted when market prices were higher.

Direct Energy will initially offer three products, all of them term products with either an introductory offer followed by a fixed rate, or a single fixed rate:

- A 12-month product that includes a fixed-price of 8.99¢ per kWh for the first three months followed by a fixed-price of 9.49¢ per kWh for the remaining nine months.
- A 12-month wind REC product that offers a fixed-price of 10.09¢ per kWh for the first three months followed by a fixed-price of 11.49¢ per kWh for the remaining nine months. Under this product Direct will purchase RECs to match the customer's monthly electricity consumption.
- A 36-month fixed plan that offers customers a fixed-price of 9.99¢ per kWh for each month.

Both 12-month products include a $100 early termination fee. The 36-month product includes a $300 early termination fee.

Phil Tonge, President of Direct Energy's residential business, said that Direct opted to offer a 12-month rate, as opposed to a rate that ends coincident with the end of PPL's 2010 default service plan (as Dominion Retail is doing) because Direct believes that customers want certainty for a longer

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Just Energy Proposes $50 Exit Fee Cap, Other Conditions as Part of Pa. Certification

Just Energy has offered to not use independent sales contractors for Pennsylvania door-to-door sales, and to cap termination fees for door-to-door sales at $50, as part of a series of conditions it would agree to in receiving Pennsylvania electric and gas licenses, Just Energy said in a motion for reconsideration of the PUC's decision denying Just Energy's license applications. Just Energy also argued that reconsideration is warranted because the Commission failed to give Just Energy an opportunity to present evidence of its technical competency to rebut Staff's concerns.

As only reported by *Matters*, the Commission denied both of Just Energy's license applications due to concerns regarding settlements of lawsuits or investigations from the attorneys general of Illinois and New York, a still pending complaint from the Citizens Utility Board, and relatively high complaint rates for Just Energy affiliates versus other suppliers (Only in Matters, 11/12/09).

In response Just Energy proposed a series of conditions that would apply to its residential and small commercial door-to-door sales for the initial 12 months of its licensure, in order to answer the Commission's concerns about complaints. Among the conditions proposed by Just Energy are:

- Early termination fees will be capped at $50
- Just Energy will provide an extended cancellation period of up to 30 days after the issuance of the first bill during which the customer would not pay a termination fee for leaving Just Energy
- Just Energy will only use employees, not independent contractors, for door-to-door sales

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DPUC Schedules Technical Meeting on Referral Program Bill Inserts

The Connecticut DPUC scheduled a technical meeting for December 16 to discuss bill inserts being issued under the competitive electric supplier Referral Program (05-08-05RE02).

The meeting was prompted by the DPUC's decision to direct Connecticut Light and Power to remove suppliers' rates from the bill insert to be sent out in CL&P's cycle 1 mailing, which runs from December 1, 2009 through January 5, 2010. In removing the supplier rates from the bill insert, the DPUC and CL&P did not consult with suppliers, prompting a protest from Dominion Retail.

Dominion Retail noted that the DPUC's order instituting the amended referral program requires the listing of specific prices, and requires consultation with suppliers prior to instituting changes to the bill inserts.

In denying Dominion Retail's protest of the revised insert, the DPUC said that it directed CL&P to remove the referral offer prices from the current insert because the bill insert will be distributed in December and January bills. As default generation service rates and supplier offers often change on January 1, "prices were removed to eliminate the potential for customer confusion that could result if prices were listed and subsequently changed," the DPUC said.

Additionally, the DPUC explained that it ordered various modifications to demonstrate the increased number and variety of supplier offers. The Department said that it recognizes that conditions in the retail market have changed since the amended referral program was initiated.

In addition to holding a technical conference, the DPUC will discuss with CL&P and United Illuminating the potential for adjusting the bill insert schedule so that prices may be included on the insert in the future.

RESA Proposes Md. POR Technical Conferences

The Maryland PSC should conduct a series of intensive technical sessions to discuss the electric utilities' proposed Purchase of Receivables implementation plans, and evaluate the full range of possible solutions to flaws that may exist in the utilities' proposals as filed, the Retail Energy Supply Association said in comments filed with the PSC.

As only reported in *Matters*, Delmarva, Baltimore Gas & Electric and Allegheny Power have submitted compliance filings with relatively high discount rates, mainly due to the inclusion of a discount component to reflect the risk of the continuation of the supplier-customer relationship, or the risk that customers might migrate to dual billing from utility consolidated billing (Only in Matters, 11/10/09).

"Delmarva Power, Allegheny Power and BGE have submitted compliance plans that lack sufficient information to allow the Commission and stakeholders to conclude that they are reasonable programs. Additional time is needed to allow for the flow of information and earnest discussion, because it is imperative that POR programs be effective, successful programs from the outset," RESA said.

Citing Staff's questions to Delmarva seeking additional workpapers and support for its proposed discount rates (Only in Matters, 11/18/09), RESA said that all parties could benefit from additional time to study and discuss Delmarva's responses, and said that Allegheny and BGE should be required to submit similar supplemental information.

Given the need for more information and discussion, "deferring consideration of Delmarva Power's compliance plan on December 2, 2009 - as well as consideration of Allegheny Power's and BGE's plans on December 9, 2009 - is reasonable and in the public interest," RESA said. RESA proposed that once Delmarva produces the requested supplemental information, it should convene a series of technical sessions, open to all interested parties and moderated by Commission Staff, in December 2009 to tackle the wealth of POR-related issues that make for a successful program.

RESA anticipates that these technical sessions would examine the following issues, among others that might be introduced by other stakeholders:

- Whether the proposed program development and administrative costs are actual incremental costs that should be recovered through the discount rate;

- Alternative cost recovery mechanisms for program development and ongoing administrative costs, including rate design issues, the use of a per bill charge, or the use of a longer amortization period;
- Alternatives to the proposed risk component of the discount rate; and
- Technical and operational issues surrounding the transition to POR.

The stakeholders would advise the Commission, within 30 days, of their progress towards achieving a consensus approach to POR, (which would be memorialized in the form of a proposed settlement), and whether a compliance filing is ready for Commission adjudication. A similar process can and should be utilized by Allegheny Power, BGE, and Pepco, RESA said, noting that joint technical sessions could be used to simultaneously address issues common to all POR programs.

"In short, RESA is willing to roll up its sleeves and discuss POR-related issues with each utility and other stakeholders, with the goal being to construct POR programs that will benefit customers while being fair to utilities and retail suppliers alike," RESA said.

REPs Argue Levelized Billing Incompatible with POLR Service

Proposed standard Terms of Service for residential Provider of Last Resort service in ERCOT should strike a requirement for non-volunteer POLRs (aka Large Service Providers) to offer levelized billing plans to customers, due to the temporary nature of POLR service, several REPs said in comments at the PUCT (37034).

The proposal in the residential Terms Of Service to require non-volunteer POLRs to offer levelized payment plans, "is incompatible with the temporary nature of the POLR rate and should be deleted," the REPs said. The REPs noted that Commission rules encourage non-volunteer POLRs to transfer customers to non-POLR rates as soon as possible, and that the rules require that a customer be moved to a market-based, month-to-month product within approximately the first sixty days of POLR service.

"Given that the Commission's rules require that a customer be moved to a market-based month-to-month product within approximately the first sixty days of service, it makes little sense to begin a levelized payment plan during that brief period," the REPs argued. The REPs further noted that calculating an appropriate levelized payment amount would be difficult, if not impossible, since under the POLR rate, the price that the customer is charged is not known until the customer invoice is rendered.

The REPs also argued that the proposal should be modified to eliminate the requirement that REPs allow customers who have applied for the Lite-Up discount to pay deposits in two installments, rather than applying the installment requirement only to customers *enrolled* in the Lite-Up program. The REPs noted that they have no way to verify those customers who have applied for the Lite-Up program, any can only verify those customers who have been enrolled into the program. Outside of POLR service, the installment requirement is only applied to customers enrolled with Lite-Up Texas, and the REPs said that no policy reason justifies extending an added benefit only to POLR customers with regards to allowing installment payments for deposits.

The comments were jointly filed by the Alliance for Retail Markets, CPL Retail, Integrys Energy, Reliant Energy, the Texas Energy Association for Marketers, TXU Energy, and WTU Retail.

Maine PUC Denies GridSolar Transmission CPCN Request for Distributed Generation Project

The Maine PUC denied GridSolar, LLC's petition for a Certificate of Public Convenience and Necessity for its distributed solar and propane-fired generation project meant to increase distribution system reliability, finding that the GridSolar Project will be a generation facility and not "transmission plant" as that term is defined in Title 35-A, M.R.S.A. (2009-152, Matters, 8/31/09).

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

Though a final order was unavailable, the PUC said in a news release that GridSolar's project did not meet the requirements for transmission plant, finding that the project is a generation facility. Generation, the PUC noted, was squarely separated from transmission under the Electric Restructuring Act of 2000.

The Commission said that its order only applied to GridSolar's CPCN petition, and that the Commission made no finding regarding whether GridSolar's project may serve as a generation alternative to CMP's transmission line in docket 2008-255.

Briefly:

Public Power & Utility Seeks Pa. License

Public Power & Utility has filed for a Pennsylvania electric supply license as a generator and supplier of electric power, seeking authority to serve all customer classes, including residential, in all service areas. PP&U reported that its customer portfolio stands at over 30,000.

Metromedia Power Seeks Ohio Broker License

Metromedia Power applied for an Ohio electric broker/aggregator license to serve commercial, industrial and mercantile customers in all service areas.

Bmark Energy Seeks Pa. Electric License

Broker-consultant Bmark Energy applied for a Pennsylvania electric supplier license as a broker/marketer, seeking authority to serve all classes of customers in all service territories.

Better Cost Control Seeks Conn. Aggregation License

Better Cost Control, LLC applied for a Connecticut electric aggregation license to serve commercial and industrial customers. Better Cost Control has brokered Massachusetts load since 2004.

Tradition Energy Receives Ohio Electric License

Tradition Energy (TFS Energy Solutions) received an Ohio electric broker/aggregator license (Only in Matters, 10/20/09).

NRG Acquires Blythe, Calif. Solar Plant

NRG Energy has acquired the 21-MW Blythe photovoltaic solar project in Riverside County, Calif., from First Solar, Inc. Terms were not disclosed. The plant's output will be sold to Southern California Edison under a 20-year power purchase agreement. As part of the acquisition of the nearly completed Blythe solar project, NRG has entered into an engineering, procurement and construction agreement with First Solar for completion and performance testing of the project. Testing is expected to commence later this month, and the project is to be completed by year-end. NRG said that the project is the first and largest utility-scale photovoltaic solar project in California, and will be NRG's first solar generation facility in operation when it comes online later this year.

FirstEnergy Generation Purchases Rights to Compressed-Air Storage Project

FirstEnergy Generation has purchased the rights to develop a compressed-air electric generating plant on a 92-acre site in Norton, Ohio, from CAES Development Company, a portfolio company of Haddington Ventures. Terms were not disclosed. The transaction includes the rights to a 600-acre underground cavern (a former limestone mine) that FirstEnergy Generation called "ideal" for energy storage technology which could store and firm intermittent renewable generation. FirstEnergy Generation is evaluating its options related to the project, but has not yet committed to development scope or timing. However, FirstEnergy Generation said that an initial phase could involve installing two to four units capable of generating a minimum of 268 MW. With 9.6 million cubic meters of storage, the Norton site has the potential to be expanded to up to 2,700 MW of capacity, FirstEnergy Generation said.

CAISO Submits Convergence Bidding Design Policy to FERC

The California ISO formally filed at FERC for approval of its convergence bidding design policies, in docket ER10-300. As CAISO expects some areas of its proposal to draw protests, it said that the Commission should address various policy questions relating to convergence bidding prior to CASIO submitting tariff language (Matters, 10/30/09).

Direct Energy ... from 1

period. The current pricing environment lends itself to fixed price offers, Tonge added, since customers can gain the security of a fixed rate without paying too high of a premium versus a variable rate, which Direct is not offering initially.

Direct will be using a full suite of sales channels and is, "here to stay," in Pennsylvania, Tonge reported. Tonge said that lawmakers' and regulators' "steadfast" commitment to competitive retail markets prompted Direct's entry into PPL's residential market.

Currently, Direct only serves Pennsylvania residential electric customers at Pike County Light and Power through its aggregation program. Asked what would prompt Direct to enter the other currently uncapped residential markets (Duquesne Light, Penn Power, UGI, Citizens, Wellsboro), Tonge only said that their market structures have not fully developed yet, but declined to get into specifics, though he noted uncertainty regarding RTO membership previously at Duquesne Light and now at Penn Power has been a factor.

Tonge likened the opening of PPL to the opening of the Connecticut market at the end of the Transitional Standard Offer, followed later by the statewide introduction of Purchase of Receivables. While declining to give specific projections for residential migration at PPL, Tonge noted that 15-20% in the first year would be in line with similar market openings.

Making residential choice easy to understand for customers will be a big part of Direct's strategy, and it will launch a "Simple Answers" education campaign through newspaper ads, billboards, radio spots, and online marketing. As part of the campaign, Direct will hold a series of town hall meetings on choice in December for PPL customers.

Aside from the aforementioned Pike County customers, Direct serves Pennsylvania residents on the gas side at Columbia Gas.

Direct joins Dominion Retail, Liberty Power, and Anthracite Power and Light as suppliers currently marketing residential offers to customers. Anthracite Power and Light is offering residential customers of its heating oil affiliates Jack Rich Inc., Keller Oil, and Lehigh Fuels a price of 9.495¢/kWh.

Several other suppliers (Washington Gas Energy Services, Champion Energy Services, and Gateway Energy Services) have indicated that they will begin residential marketing in the near future.

Just Energy ... from 1

- All Just Energy marketing materials to be used, including contracts and customer facing materials, will be provided to Commission Staff for comment five days prior to use
- Just Energy will meet with Staff monthly to discuss and report on complaints and customer service metrics
- Just Energy will conduct background checks on all potential employees and will provide the background check criteria to Staff
- Just Energy will provide a single point of contact and escalation contact to Commission Staff for resolution of customer inquiries or complaints

The conditions would be lifted if, among other things, Just Energy's complaint ratio at the end of 12 months is less than 2% of sales.

Just Energy had previously proposed various remedial measures, including the 30-day no-cancellation-fee period and increased training and verification procedures, in its original application -- measures that Just Energy said the Commission did not properly weigh. Additionally, Just Energy noted that the complaints and other actions cited by the Commission all involved actions from 2007, some two years ago, and that its complaints have dropped since introducing various remedial measures.

Just Energy noted that the complaint data cited by the Commission was obtained by

Commission Staff *sua sponte* and was not entered into the record, thereby depriving Just Energy of an opportunity to respond to any concerns.

Just Energy first observed that not all customer contacts included in the complaint statistics in some states are actual complaints, and further noted that not all complaints are upheld.

Just Energy presented data related to its sales-related customer complaints received compared to total contracts signed, which it said provides a more accurate picture of its technical fitness. For New York, this complaint rate is 0.96%, or less than 1% of sales, Just Energy said. Just Energy also reported that, year-to-date, it has sold over 145,000 contracts in New York.

Using another approach, Just Energy said that its New York complaint rate year-to-date is 1.5 complaints per 1,000 sales. Just Energy contrasted its rate with the average complaint rate of Pennsylvania gas LDCs, which was 2.01 complaints per 1,000 customers in 2007, and 2.68 complaints per 1,000 customers in 2006.

In Texas, Just Energy said that, year-to-date, its complaint rate versus the total number of sales is only 0.61%. Just Energy said that it has increased Texas sales from 10,550 contracts sold in 2007 to 132,000 contracts sold in 2009 year-to-date.

In Illinois, Just Energy said that its complaint rate is 1.28% year-to-date, based on 85,000 sales year-to-date. Just Energy also said that its "justified complaint" rate for Illinois is 11%, in line with the utilities' rates of 7-13%. Just Energy further reported that it serves 30% of migrated gas customers in Illinois, with the remaining 70% of migrated customers split amount eight or nine suppliers.

Just Energy noted that it has recently received retail licenses from Massachusetts (electric) and Michigan (gas), as those state regulators found Just Energy to be a technically competent retail supplier.